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THE

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OF THE

Selden Society

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VOLUME XXXV

FOR THE YEAR 1918

Selden Society

FOUNDED 1887

TO ENCOURAGE THE STUDY AND ADVANCE THE KNOWLEDGE OF THE HISTORY OF ENGLISH LAW.

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Select Cases Before the King's Council
1243-1482

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Selden Society

SELECT CASES BEFORE THE KING'S COUNCIL

1243-1482

EDITED FOR THE SELDEN SOCIETY BY

I. S. LEADAM AND J. F. BALDWIN

CAMBRIDGE
THE HARVARD UNIVERSITY PRESS
1918

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PREFACE

THE death of Mr. Leadam in the Fall of 1913 in the full vigour of his work was a serious loss to the Selden Society. With eminent success as an author and editor, he had contributed three of the former publications of the Society, and was already engaged upon the present volume, when the pen dropped from his hand. As his literary executor it is incumbent upon me to explain the part of the labour for which he is to be credited. Eight of the selected cases and excerpts, including *Boistard* v. *Cumbwell*, *Taylor* v. *Rochester*, *Bishop of Valence* v. *Worcester*, *Rex* v. *Gerdeston*, *Lombards* v. *Mercers*, *Molyns* v. *Fiennes*, *Lowestoft* v. *Yarmouth*, and *Taylors* v. *Brembre* were left in completed form with texts, translations, footnotes, and introductions. These have been retained with the least possible alteration. In *Ughtred* v. *Musgrave* I have extended the text, and further elaborated the notes. A mass of miscellaneous papers also were placed in my hands. But the selection and annotation of all the other cases are substantially my own. Because the work covers much of the same ground, for the history of the subject I must frequently refer the reader to my former treatise of *The King's Council* (1913). As with almost every other enterprise in our affiliated countries, the world war has had its effect of cutting off communications and delaying the completion of the work. At this distance from the manuscript sources, Mr. Charles Johnson of the Public Record Office has been my constant ally. He has read all the proofs, corrected many a doubtful passage, and out of his expert knowledge contributed materially to the notes. Finally, under existing difficulties of transportation, the Harvard University Press with hearty coöperation has solved the problem of publication on this side of the Atlantic.

J. F. B.

POUGHKEEPSIE, N. Y.
26 JUNE, 1918.

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INTRODUCTION

PART I

THE COUNCIL

Sources and Material — Choice and Presentation — The Council as a Court — The Council and other Courts — Jurisdiction — Procedure.

1. SOURCES AND MATERIAL

The king's council is one of the oldest themes of historical study and writing. In the fifteenth century it was noticed by Sir John Fortescue, in his *Governance of England*,[1] the earliest attempt at a constitutional treatise. Because of its connexion with the problems of law under the Tudors and the Stuarts, it was a subject of special interest to the jurists of the period, such as William Hudson,[2] Julius Caesar,[3] John Cowell,[4] Thomas Smith,[5] Edward Coke,[6] and Matthew Hale,[7] who saw its connexion with the Court of Requests and the Court of Star Chamber. In the nineteenth century it was given due prominence in the works of Nicolas, Palgrave, Dicey, Stubbs, and Maitland. Each one according to the learning of his age has brought the subject a step further into the light, until it is by no means one of the least known of all our legal and political institutions. But up to the present time there has not been published any comprehensive collection of cases before the king and council, upon which not only the history of the council, but also in proportional measure the history of law must depend. Although in inverse order, this was the necessary sequence of events, for it is only gradually that such cases have been discovered, and only with the aid of many collateral publications can they be studied to advantage.

The difficulty of reaching the records has been considerable, for the council was distinctly not a court of record; it kept no regular roll; it maintained no system of collecting or preserving its records. Written for an immediate purpose, the memoranda of its cases were scattered and lost, except as they have been preserved among the miscellaneous papers of the chancery and the exchequer. Many of these cases, it is true, have been known and cited by former historians in the field, by whose work we have ourselves been guided and assisted. First, Sir Edward Coke, the extent of whose learning has not ceased to cause amazement, in his *Fourth Institutes*, ch. v, was acquainted with no fewer than fourteen cases prior to the Statute establishing the Court of Star Chamber in 1487. Each of these cases, with one exception, the present editor has succeeded in finding in its original form; three of them are set forth in this volume, while others have been published elsewhere. William Hudson, who wrote a treatise on the Star Chamber, dated 1635, cites two cases of the same period. Also Sir Matthew Hale, in his *Jurisdiction of the Lords' House* (1796), a work of enduring value, has given abundant references to court rolls still unprinted, while certain volumes of transcripts made under his direction, now in the MSS. of Lincoln's Inn, have supplied the earliest case in our collection, besides pointing the way to others. Nearer to our own time, Sir Francis Palgrave made a special study of the masses of early petitions, parliamentary and conciliar, now on file in the Public Record Office. These can best be utilized at present by the aid of the transcripts in sixty-six volumes, intended by Palgrave for publication. A few of the most striking records contained in the petitions have been set forth in his brief treatise, *The Original Authority of the King's Council* (1834). Of the great work of Sir N. H. Nicolas, *Proceedings of the Privy Council* (1834–37), the most extensive collection of this material ever published, it is only necessary to say that it consists of minutes, for the most part administrative and political, in the order of business. It contains few cases at length, but many fragments of judicial proceedings, from which much is to be learned of their character and methods of procedure. Another work serving as a guide to the original sources is that of Thomas Madox, *History of the Exchequer* (1711), which contains the best digest that has ever been made of the rolls of the exchequer. By the aid of his citations and excerpts at least one of our cases has been obtained, and the way uncovered for more.

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[1] Ed. Charles Plummer (1885), especially chapters xiv and xv; also Appendix containing a tract on "Good Counseill."

[2] *Treatise on the Star Chamber*, in F. Hargreave, *Collectanea Juridica*, vol. ii.

[3] *Acts, Orders and Decrees of the King and Council* (1597).

[4] Many passages are given in his compendium of law known as *The Interpreter* (1607).

[5] *The Commonwealth of England* (1609), especially chapter iv.

[6] *Institutes of the Laws of England* (1669).

[7] *Jurisdiction of the Lords' House* (1796).

In editing his collection of *Select Cases in the Star Chamber* (Selden Society, vol. xvi, 1902), the late Mr. Leadam found among the files of *Star Chamber Proceedings* four cases that came before the king and council prior to the Act of 1487 on the Star Chamber, and two cases prior to Henry VII. The thought that there might be others, without which the history of the subject would never be complete, led to the compilation of the present volume, which he did not live to finish. "Until the number and character of the cases heard before the Council prior to the Act of 1487 have been definitely ascertained, it would be premature to assert that the public up to that time had recourse to the Common Law Courts, which they thenceforth deserted in favour of a tribunal less costly, less hazardous, and more expeditious."[1] Lastly, the present editor, pursuing the subject from an earlier age, found the rolls abounding in cases that were treated in whole or part by the council from the thirteenth century onward. A few of these were set forth in the history of *The King's Council in the Middle Ages* (1913), especially in Appendix III, under the title *Cases and Legal Proceedings.* Had the writer then foreseen the present work, he would probably have held this part in reserve, in order that the cases might be kept together and treated more expansively in the volume now presented. As it is, two cases are now reproduced, translated and further annotated, one because of the discovery of a better text, the other because of its special interest.

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[1] Op cit. p. lxviii.

Besides the works already mentioned there are various publications in which cases before the council are incidentally to be found, printed but not edited. The *Placitorum Abbreviatio* (Rec. Com. 1811), faulty as its transcriptions are, continues to be the most extensive compilation that we have of extracts from the earliest court rolls, in which cases before the curia regis, the king's bench, the king's council, &c. are mingled. The *Rotuli Parliamentorum* (Rec. Com. 1767–77), especially in the earlier volumes, before distinctions between parliamentary and conciliar proceedings were drawn, contain cases before the council as well as pleas best classified as belonging to the king's bench. Throughout the Middle Ages in fact cases were likely to be heard at alternate stages in parliament and before the council. The record may be in whole or part upon the Parliament Roll. In the case of *Atte Wode* v. *Clifford* (infra, p. 86) the Parliament Roll is supplemented by the record of the council. Since the council had no roll of its own, whenever a permanent record of the case was desired, a transcription or "exemplification," as it was called, might be ordered upon one of the rolls of the chancery. The dorse of the Close Roll was most likely to be used for entries of this character, less often the Patent Roll. The compilers of the Calendars of Close Rolls and Patent Rolls have generally reproduced these portions of the rolls at length, usually translated, sometimes in the original language. Two or three cases of interest may be looked for in the forthcoming *Calendar of Close Rolls* of the reign of Richard II. Since these cases are widely separated and not easily brought together, it has been thought that a table of such cases, as presented in the Appendix to this volume, might prove useful.

Among the manuscript collections in the Public Record Office, none has been more constantly resorted to for the purposes of this work than the files of *Ancient Petitions*, already mentioned. Sometimes the petition and its endorsement is the only record of a case; often it is supplementary to the record. At any stage of a litigation in fact a petition or counter-petition may be looked for. The search is not difficult with the aid of an alphabetical index (*Lists & Indexes*, P. R. O. vol. i). Would that the same were true of petitions in chancery! for the chancery was the constant resort of suitors who failed with parliament and the council. But the *Chancery Proceedings*, containing some 300,000 petitions, are too voluminous for any analysis or classification other than the bundles in which they have been preserved. In none of our cases has there been any success in finding a related petition in chancery. A very important collection of the chancery, compiled in recent years, is known as *Parliamentary and Council Proceedings*, which consists of miscellaneous matter, such as petitions, draughts of ordinances and statutes, records of cases, &c. some of which are the originals of what is contained in the Parliament Rolls. Several of our earlier cases come from this source. But as council and parliament grew apart, these materials are more parliamentary and less conciliar. It is otherwise with a parallel compilation of *Parliamentary and Council Proceedings* taken from the Exchequer. This consists of documents similar to the former, which for administrative reasons were given into the custody of the king's remembrancer. As the exchequer instead of the chancery became the regular depository of the council, it is altogether natural that typical cases of the fifteenth century should be found here. It is by an acquaintance with the administrative methods of the council, that its records can best be traced. From the time of Richard II its secretarial work was regularly performed by clerks of the privy seal, its acts were normally carried into execution by writs of the privy seal, and so among the files of this department the records of its judicial and other proceedings are most likely to be found. Particularly a series known as *Warrants, Council and Privy Seal* (Exchequer, T. R.) is made up of letters under the signet, letters and orders unsealed, which were received by the keeper as warrants for the issue of letters under the privy seal. In the case of *The Bedford Riot* (infra, p. 104) we are fortunate enough to have the original record of the office of the privy seal as well as an exemplification in the chancery. But outside of the regular depositories conciliar documents have been met in the most unexpected places. In one instance the review of an admiralty case, probably because it was referred to in foreign correspondence, is found among *Diplomatic Documents* (Chancery).[1]

2. CHOICE AND PRESENTATION

So far as choice is practicable, the effort of the editors has been to present a variety of cases, in order to illustrate as many problems of law and procedure as possible. Not only completed records, therefore, but also fragments of litigation, particularly petitions with their endorsements, confessions and examinations, have been utilized for the purpose. Whenever it has been possible, the connexion with an earlier or later stage of litigation has been shewn in the notes. A consequent writ is often a valuable addition to the simple record. Moreover, as legislation and judicature were never separate in the mind of the council, the cases often have a bearing upon the statutes and other matters of public policy. Thus the case of the *Bishop of Sabina* v. *Bedewynde* (p. 18), in connexion with others of the same kind, led directly to the Statute of Provisors. *Rex* v. *Middleton* (p. 35) has little value as a question of law, but it was connected with an extensive reform in the appointment of sheriffs and escheators. *Ughtred* v. *Musgrave* (p. 54) was a step in the gradual diminution of the judicial powers of the sheriffs. *Giffard* v. *Morton* (p. 107) was antecedent to a statute. Every case indeed has its special bearing upon some larger problem. So far as this has been learned, it has been made the subject of treatment in the notes and comments set down in the second part of the Introduction.

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[1] Given in *The King's Council*, p. 507.

The Latin and French languages were both used by the council alternately and interchangeably, until the appropriateness of the former to matters of common law and of the latter to proceedings in equity was perceived. After the method of previous volumes of the Selden Society these texts have been translated upon the right-hand pages. English texts of the fifteenth century can easily be read with the aid of a few footnotes. After some hesitation it has seemed best to keep proper names as a rule in their contemporary form. There is a temptation in the translation to modernize such forms as " Bedewynde," " Leveys," " Atte Wode," " Broket," &c. In a literary work " Bedwin," " Atwood," &c. would be preferable, but in matters of record there are reasons in favour of the archaic spelling. It is true, spelling was by no means uniform. In the same record a name appears both as " Stafferton " and " Staverton," " Poche " and " Pouche." Still there was a preferred spelling and the likelihood is that " Conyngsby " will be more accurately traced under this form than " Coningsby " and " Heyron " than " Heron." A certain deference to the correcter form of a name was sometimes shown, as in the case of William " Esturmy *alias* Sturmy."

3. THE COUNCIL AS A COURT

In the controversy that raged around the Court of Star Chamber in the seventeenth century, it was questioned whether the king's council was in any proper sense a law court, or had any judicial authority apart from the statutes defining it.[1] In view of what has since been written, no one will doubt that the council was a court resting upon the most substantial historical foundations. But what were its judicial functions, to what extent and in what manner were they exercised, are still a matter of inquiry. To what extent, are we to believe, did the council undertake the hearing of cases ? It is a question of some moment whether the cases collected in the present volume are to be regarded as illustrations of a jurisdiction regularly exercised, or as instances of an infrequent and exceptional intervention.

Sir Edward Coke, writing on the antecedents of the Star Chamber, propounded the following view: " This court in ancient times sat rarely, for three causes: First, for that enormous and exorbitant causes which this court dealt withall only in these days rarely fell out. Secondly, this court dealt not with such causes as other courts of ordinary justice might condignly punish, *ne dignitas hujus curiae vilesceret.* Thirdly, it very rarely did sit, lest it should draw the king's privy council from matters of grace, *pro bono publico*, to hear private causes, and the principal judges from their ordinary courts of justice." [1] Here the fundamental mistake, which has often been repeated, lies in the thought that there was a judicial body in the star chamber apart from the king's privy council. From time to time, it is true, there appear to be potentially two branches of the council, the one attending the king wherever he might be, at home or abroad, often designated as "about the king's person," "whom he might have with him," the other remaining at London or Westminster. Sometimes there was correspondence between the two branches, or a conveyance of bills from one to the other, but never was any organic separation effected. Much less was there any division of functions, such as consultation and administration for one group and judicature for the other. It was no doubt because of the greater weight of judicial business and the close connexion with other courts, that the council at London from the time of Edward I became the principal centre. The king himself was rarely present, and dealt with his councillors there largely by correspondence (e. g., *Sabina* v. *Bedewynde*, p. 18). This was the preference expressed by the commons in 1406, when they asked the king to send all bills, by some of the councillors attending him, to the council remaining at Westminster.[2]

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[1] See W. F. Finlason, *The Judicial Committee of the Privy Council* (1878).

Different from the modern Court of Star Chamber, the medieval council had no specific organization as a court. Though it might be called *curia*, it bore no name comparable to the "High Court of Parliament." It had no roll, no seal, no process pertaining exclusively to it. There were no stated judicial sessions or law days, though it was declared on occasion to be "sitting judicially." [3] It customarily observed the terms set for the king's courts, but did not even then manage its judicial business in any way apart from political and administrative. There is a slight suggestion also that Wednesdays and Fridays, the traditional days of the later court, were appropriate days for suitors.[4] The council was well fitted for judicial work in its personnel, which included, in addition to lords and knights, an *ex officio* element in the justices of both benches, the barons of the exchequer, the serjeants and others "skilled in the law." As to the position of these professional men, there has been considerable discussion whether they are to be considered as "members" of the council or merely "advisers" therein. We shall avoid confusion, if in this connexion we drop the word "member" as an anachronism. In the middle ages a man was a "councillor" or "counsellor," "sworn of the council," "retained of the council," "appointed to the council," but never would he be spoken of as a "member."

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[1] *4 Inst.* p. 61.

[2] *Rot. Parl.* iii, 586.

[3] *Cal. Close Rolls*, 1 Ric. II, p. 36.

[4] Petitions were to be received on Wednesdays and returned on Fridays. Nicolas, iii, 149.

He might be of the council for life, "for the time," or, "especially appointed." Likewise he might give or be asked for his "advice" or "opinion," but was not said to "vote." Moreover the king's council was intended to consist not of a single class of councillors, but "of all conditions of men, like another parliament, spiritual and temporal, nobles and lawyers common & civil, and so fit to discern, order & dispose of all things in the universal government."[1] Unlike parliament there was no particular class or estate which might claim to be included in the council. The statement that "the king summons whom he wills to his councils" was here the effective rule. Now the justices, in the time of Edward I, were regularly sworn of the council; they attended its meetings when summoned and rendered their advice. Sometimes they acted jointly with the lords spiritual and temporal, as a lesser estate.[2] Often in the treatment of legal questions they were the only councillors in attendance.[3] On one occasion an investigation was being held before the justices in first instance, and afterwards there were present others "of more importance."[4] From the time of Richard II, when the influence of the lords was more powerfully felt, the tendency was to reduce the position of the justices and other officials still further. Their attendance was henceforth occasional and their participation limited to matters of judicial character. Unless it were in the inchoate court of chancery, the council was never left solely to its judicial attendants. Still by acts of parliament the attendance of the justices was required and their advice was to be asked for in all legal questions. In the case of *Atte Wode* v. *Clifford* (p. 91), it is shown how their advice was sought upon the final form of the record. Again it is recorded how they were asked individually for their opinions. They were no less truly king's councillors because they stood on a different plane from the lords and knights. They were also specially serviceable in the committees of examination, of which more will be said. Such was the status claimed at a crisis by the justices themselves, who declared that they were the "king's councillors in law," but were not to be considered such "between party and party";[5] in other words they were to state the law but not to give judgment. Whether the justices and other officers then were members or advisers, it seems sufficient to say in the sage words of Sir John Fortescue, "they be of this council when they be so desired, else not."

At all times the council served as a body of consultation and advice for the justices in any legal difficulty. This practice is perhaps traceable to the act of Henry II in 1178, requiring the justices of the bench then appointed, whenever any question should arise which they could not decide by themselves, to consult with the king and his *sapientiores*.[1] So long as the fundamental unity of the courts was maintained, it was natural that the council should be consulted whenever the justices were uncertain of their ground. The cases of the thirteenth century abound in references of this kind to the council, which then appears not in the light of a higher or a distant tribunal, but a larger assemblage, often quickly summoned, of the existing court. The greater distinctness of the courts, as effected in the fourteenth century, hardly lessened the practice of the justices meeting in council for the purposes of discussion.[2] The court of common pleas was once in a quandary over its inability to put a judgment into execution. The justices were divided in opinion, when the chief justice concluded, " we have spoken to the council respecting this mischief; (to one of the litigants) go you to the chancery and you will have a *non obstante* writ directing us to effect execution." [3] The council was not a court of appeals; the common-law courts themselves denied its right to review their judgments on allegation of error. Yet something to the same effect was granted in its power to determine a point of procedure. The Statute 13 Ric. II, c. 2, lays down that if anyone complain that a plea pending in the court of chivalry should be tried by common law, he shall have a writ to surcease until it be discussed by the king's council whether the matter ought to be tried in that court or by common law.

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[1] Hudson in *Collectanea Jur.* ii, 52.

[2] Fait a remembrer qe le Roy, Seigneurs, Chivalers et Justices assenterent en cest present Parlement. *Rot. Parl.* iii, 315.

[3] A determination was once reached "because it seems good to those of the council learned in the law." *Cal. Pat. Rolls*, 28 Ed. III, p. 153; also *Cal. Close Rolls*, 4 Ric. II, p. 457.

[4] *Cal. Pat. Rolls*, 20 Ed. III, p. 135.

[5] *Rot. Parl.* v, 376.

It is abundantly evident that the principal attention of the council, in judicial matters, was given not to the hearing of cases at length, but to facilitating their hearing by other courts. This was done to the best advantage by answering the petitions that were presented in indefinite number. There were petitions of grace, asking for favour, and petitions of right, requiring judicial action, but in hearing them no separation was made of the one class from the other. Every petition in fact was a request for a measure of the king's grace. According to a well established custom, petitions of law should be presented in parliament, wherein special committees were appointed to receive and hear them, but parliament was unable to deal with them all. In the time of Edward III it became a matter of urgency that petitions should be heard before the close of the session, and it was sometimes a grievance that they were not heard but left over " from parliament to parliament," while petitioners must sue and sue again. Under these conditions petitioners sought the council as an alternative. In the *Parson of Langar* v. *Conyngsby* (p. 48) we see a petitioner, who was forcibly prevented from suing in time of parliament, turning then to the council for relief. Parliament was jealous of this tendency. In the reign of Richard II it distinguished between those petitions which could be considered only in parliament and those which could be considered apart by the council.[4]

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[1] Benedict of Peterborough (Rolls Series), i, 207.

[2] Et puis apres en Counsail fust ceste chose abatu coram Justiciariis omnibus. *Year Books* (Rolls Series), 20 Ed. III, ii, 127.

[3] Ibid. 17–18 Ed. III, p. 12.

[4] *Rot. Parl.* iii, 163.

Except as the statutes limited the council in certain respects, it is difficult to see what was intended by this classification. Moreover in spite of its suspicion of the council, parliament under the Lancastrians was wont to leave at the close of its sessions whole masses of unconsidered petitions, under requirements that it should answer them within a limited time, that it should act with the advice of the justices, or perhaps cause the bills to be recorded upon the Rolls of Parliament.[1] The answer to a petition was usually given in an endorsement solving the difficulty; it might name the writ or direct the parties to the proper court; it might convey also a positive opinion for the guidance of the justices. According to an often repeated regulation, the council was to turn over to the courts all matters touching the common law. Lest private interests encroach on public business, the council was enjoined to deal with the king's business first. According to a rule laid down in 1424 suitors were to present their petitions on a Wednesday, and find them answered and returned on the following Friday;[2] to this a proviso was added in 1426 "unless great and notable causes touching the king's realm and his lordships hinder."[3] Under the difficulties of getting answers to their petitions, suitors were importuning individual councillors, so that for the sake of fairness it was enacted that lords of the council should grant no favour in any suit but reply that the bill should be seen by all and the party have answer.[4] Other means resorted to by importunate suitors was to address their petitions to the Lord Protector and other individual lords of the council.[5] Altogether there is evidence that the council in addition to its other duties was overburdened with the load of petitions. Following the example of parliament, on one occasion at the close of a term it ordered that a pending plea, together with all remaining petitions and acts, should be committed to the lord chancellor to be determined in the chancery.[6] Thus out of the business that parliament and the council had not the time or the energy to perform, the jurisdiction of the chancery was being built up.

Finally, as to the cases heard at length and terminated by the council, the evidence is that these formed the smallest part of the business taken up. This was less from the lack of "enormous causes," as Coke supposed, than from the inability of the council to give them attention. Even if a preliminary examination or a partial hearing was granted, the matter was most likely to be given to one of the courts, a board of arbitration, or a special commission for determination (e. g. *Burton* v. *Meynell*, p. 41). When further hearing was possible, the cases were taken up in the midst of other public business, quickly adjourned, and after repeated postponements might fail of a final decision. Of cases that were fully treated, it would be justices. The larger court was not " a higher power," as Maitland once said, much less was it a different power; it was essentially the same court however much it gained in dignity and collective wisdom.

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[1] *Rot. Parl.* iv, 174, 285, 301, etc.

[2] Nicolas, iii, 149.

[3] Ibid. p. 214.

[4] Ibid. pp. 149, 214.

[5] Examples are given in *The King's Council*, pp. 330 f.

[6] Nicolas, iii, 36.

By the time of Edward I the king's bench had become predominantly a court of common law. It is so regarded by Britton, who says of the justices " their jurisdiction and record shall extend so far as we shall authorize by our writs." [1] He also mentions it as an alternative court to the king's council. The same distinction will be found in the records of the court itself. At the same time the rolls are interspersed with conciliar and parliamentary cases, such as *Valence* v. *Bishop of Worcester* (p. 5) and *Rex* v. *Gerdeston* (p. 27). There were also variants of law and procedure, such as the acceptance of a writ not in legal form, the suit of a foreigner, a trial without indictment, which were significant of the existence potentially of two tribunals, though they were not so understood at the time. In one case a litigant was told to sue at common law if he wished; [2] the process then before the court was not such. Late into the reign of Edward III the records still contain the proceedings of both court and council. But by that time, as we shall shew, the features of conciliar procedure had become so distinct from the common law, that there was no longer any reason for confusion.

In its earliest days the exchequer was not named as a court. The tribunal was designated preferably as " the king's court in the exchequer." There seems to have been a survival of this idea in the practice of the council sitting in the exchequer, as illustrated in our case of the *Bishop of Sabina* v. *Bedewynde* (p. 18). This was properly an exchequer case, according to the privileges of this body, in that it affected the rights of one of its officers; it was also a case for the council in that it was a dispute over the king's right in a question of church and state. The court was then a special assemblage of lords and officers, who were called by the king's writ into the exchequer, to hear the matter and, in the words denoting its extraordinary character, " ordain what should be done according to right and reason." The proceedings were after the methods of the council; a reading of the petition, the pleadings of the parties in turn, a search of the records, a hearing of written evidence, deliberation and discussion, and finally a determination of the question and a report to the king. The process was afterwards read before the treasurer and barons of the exchequer, who ordered it to be engrossed upon the Memoranda Rolls, and a copy sealed with the seal of the exchequer was given to the successful defendant. In these proceedings it seems quite inadequate to say that the council was merely a reinforcement of the exchequer, or happened at the moment to be occupying its house.[3] It was rather the original court, which was still immanent in the exchequer, and served for the occasion by the administrative agencies of this department. There were other cases before "the council at the exchequer," according to a contemporary phrase, but their great length has deterred us from presenting them here.

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[1] Ed. F. M. Nichols (1865), ii, c. 4.

[2] *Abb. Plac.* p. 353.

[3] This is the contention of Professor Tout, *Eng. Hist. Rev.* Jan. 1915, p. 119.

More than of the exchequer, our selections will shew the vital connexion of council and chancery. It is a singular phenomenon that the court of chancery, which began with a closely restricted jurisdiction, should in time be granted the greatest amount of discretionary power. This development was not an expansion of the original functions of the court, which were purely legal and formal; much less was it due to any inherent capacity of the chancery or its officers. Neither was it primarily an outgrowth of the individual powers of the chancellor. The origin of a court of extraordinary authority is found rather in the practice, noticed early in the fourteenth century, of assembling the council whenever a point arose in the chancery requiring discussion and deliberation. It might pertain to the formulation of a writ or a case under adjudication. The assemblage, known as *consilium in cancellaria,* was larger or smaller according to the interests involved, or perhaps the convenience of the occasion; sometimes it was predominantly of barons, often of judges and officers.[1] At this time it is the same whether we speak of the common law or the equitable side of the chancery, a distinction that can be perceived not in the composition of the court but in the character of the cases. In its primitive form the court was an assemblage especially called for each separate case. It was given authority *ad hoc* by the king's writ directed to the chancellor, who was to summon the council; with a certain degree of discretion he is to call "those remaining at London," "whom he sees fit," or "enough to do justice." The chancellor then cites the parties to appear, he presides over the court, he asks a question, he answers an objection, he executes the order of the court. His functions enlarge rapidly. Before the end of the reign of Edward III suitors were addressing petitions to the chancellor, or the chancellor and council. In these petitions, it does not appear that suitors regard him as more than an executive officer and their most feasible means of approach to the council. By the time of Richard II he was able to summon the court on his own authority without the initiatory writ of the king. Yet it is not shown that even then the chancellor was ever sole judge or even the predominant judge in the court over which he presided. The stage of development then reached is illustrated in the suit of Joan Celers,[2] who petitioned the chancellor for the recovery of money that had dropped out of a cart into the road and was stolen by "certain men" of Dunstable. In consideration of her poor estate and lack of means to sue at common law, the chancellor caused the men, who were reputed to be the finders of the money, to be brought into the chancery where they were examined. It was then "the court," not the chancellor, that ordered the defendants to make restitution. Our *Petition of the Hansards* (p. 76) in 1389 is the earliest instance yet found of a petition in chancery followed by a decree. While the petition was addressed to the chancellor, the decree was pronounced by the council, and then the chancellor made execution of the order.[1] This answers a question once propounded by Mr. Pike. In view of the lack of records of decrees in chancery, did not the chancellors at first treat such bills under the forms of common law ?[2] No; the evidence is that the earliest bills in chancery were adjudicated by the council. Decrees by the chancellor came much later.

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[1] In the case of the *Prior of Coventry* v. *Queen Isabel* heard in 1336, the assemblage consisted of one bishop, one earl, two lords, four justices and others of the council. *Miscellaneous Rolls* (Chancery), 18/22.

[2] *Cal. Close Rolls,* 4 Ric. II, 475.

Yet the Statute of Praemunire mentions the council *or* the chancery as two alternative courts. What was the distinction ? From the inception of the court of chancery there was one attribute that gave it a mark of distinction beside all other tribunals. This was the possibility, as we have already intimated, of assembling the court at any time. As was suggested by a suitor in the time of Richard II, since the council in the usual course was not to meet before Michaelmas, he asked that the chancellor be commanded to summon it without delay. The council on the other hand, while not restricted to terms, was inclined in all judicial business to observe the terms and vacations set by the regular courts. "Out of term time," it was enacted, "nothing should be sped in the council but such thing as for the good of the king and the land seemeth necessary . . . and may not abide until the term time." The need of a court out of term time is expressed in the Statute 13 Hen. IV, c. 7, which committed the enforcement of the law against rioters "to the council, the king's bench, *or* the chancery *during vacation*." In no way did the chancellors more certainly succeed in making their court useful and popular, than by causing it to be open at all times to suitors.

The student of the chancery is apt to state prematurely the separate formation of the court. It was indeed distinct in all its administrative features some time before its judicial capacity was recognized. Different from the king's bench, which separated from the council along the line of the common law, the chancery during its formative period retained the character of the original court, it made no departure of law, but simply continued the jurisdiction and procedure of the council. Its only merit was in making these more widely available and practicable. Another error or failure of perspective lies in treating the court of chancery as a direct emanation of the royal prerogative. As a court of equity, it was necessarily close to the king and dispensed his prerogative, but this was after the manner of the council by consultation and advice. It was in a later stage that the chancellor himself was deemed the keeper of the king's conscience.

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[1] See also *Rot. Parl.* iii, 310–313.

[2] *Law Quar. Rev.* i, 443–454, reprinted in *Essays in Anglo-American Legal History* (1908), ii, 722–736.

For another half-century then, in all equitable cases the attendance of the council was still regarded as necessary. Sometimes there were present the same lords and knights who were prominent in political work.[1] But the number gradually shrinks to the formal attendance of a few advisers, possibly only two justices, before the semblance of a conciliar body disappears entirely. There is an instance in 1458, wherein the decree is set down as pronounced "by the chancellor with the advice of the justices of either bench."[2] After this the position of the chancellor as sole judge is rapidly reached. In 8 Edward IV he declares that he holds two jurisdictions, the one of common law, the other of equity; here the chancellor calls himself a judge.[3] In 14 Edward IV there is a clear example of an equitable decree given by the chancellor alone, and other instances soon follow.[4] This was not the last of councillors in attendance and there was still an inclination in this connexion to speak of the court rather than the chancellor. But the separate growth of the chancellor's equitable jurisdiction is no longer to be doubted. The nature of this jurisdiction and its derivation from the practices of the council will be discussed a little later.

Another problem in the development of the chancery is helped toward solution by the records of our cases. It has always been a question how far the clerical estate of the chancellors, for with slight exception they were invariably clergymen, affected their judicial position. Also to what extent did they draw upon their knowledge of canon law and the practices of ecclesiastical courts in creating the jurisdiction of the chancery? For the most part the evidence on these material points is extremely elusive. But there is a suggestive incident in our memorandum of *The Confession of William Chamberlain* in 1383 (p. 71), wherein it is told how a man who had been drawn into an attempt to forge a testament, feeling pangs of remorse, went to the archbishop of Canterbury then chancellor and made to him a complete confession. The chancellor laid it upon the guilty man as a penance to withdraw from his confederates and then to go to the church where the testator was buried and confess the wrong. This confession we are told he went forth and made before the whole parish. The records rarely tell us as much, but it is altogether likely that many a case of moral right or wrong was settled in some such way, without formal proceedings, by the imposition of a penance, or even a word of persuasion or reproach. The remaining question of the influence of canonical law will be touched upon in the following sections on jurisdiction and procedure.

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[1] Baildon, *Select Cases in Chancery* (Selden Society, vol. x), no. 34.

[2] *Cal. Pat. Rolls*, 3 Hen. VII, p. 204, also Baildon, nos. 143, 147.

[3] *Year Books*, 8 Edw. IV, p. 6.

[4] *Cal. Pro. in Chancery*, i, xciv; also, *Cal. Pat. Rolls*, 8 Hen. VII, p. 432.

5. JURISDICTION

It was the peculiar function of the council to deal with cases of emergency, especially those beyond the reach of the common law or its means of enforcement. These formed no class, but a series of kaleidoscopic variety, which shifted according to the needs of the particular time. Different from any other court there was in the beginning no field of jurisdiction belonging peculiarly to the council. Contrary to a current impression, it did not receive criminal in preference to civil cases. In fact it gave attention to anything that, because of the incompleteness of the law, required in whole or part exceptional treatment.

To a certain extent this jurisdiction was defined by the statutes. But out of a feeling of jealousy and distrust, parliament committed few subjects to the council, and still fewer to it exclusively of other courts. The first Statute of Praemunire, 27 Edw. III, c. 1, declares that violaters of its provisions are to be brought before the king and council, or in the chancery, or before the justices to answer. The second Statute of Praemunire, 38 Edw. III, c. 1, is almost the only act during the Middle Ages that leaves its enforcement to the king and council, without the alternative of any other court. There are lesser acts, like the Statute 8 Ric. II, c. 4, on the rasing of records, and 12 Ric. II, c. 11, on scandalous reports, which were to be enforced in the same manner, but on the whole it is surprising how little was given to the council by statutory authority. It was more in accord with the spirit of parliament to pass restrictive acts against the council. The Statute 5 Edw. III, c. 9, that no man should be attached or his possessions seized contrary to the Great Charter and the law of the land, laid down a principle often reiterated, but vague and uncertain in its application. The Statute 25 Edw. III laid down that no man should answer for his franchises or freehold but by course of common law. The commons desired to add " and for matters of life and limb," but the king consented to the restriction only as regards freeholds. This was a material limitation, and, as events proved, almost the only one of positive character that parliament ever succeeded in passing. It was an act which the council, instead of overriding, was careful to observe, returning petitions to the courts of common law on the ground that they pertained to freeholds.[1] A petitioner once sought redress in parliament on the allegation that the council had heard a plea touching his freehold,[2] but it is doubtful if the law had been actually violated. Certainly no jurisdiction of the kind was ever claimed by the council or the chancery.

For the most part the jurisdiction of the council was not affected by the statutes, but extended by the practice of the court itself. In the medley of cases before us, first and foremost were those taken up because they affected the king's interest. Whether the king was in any wise above and beyond the law,[1] is a juristic question that matters not in this connexion. It was at all times an effective rule in the courts of law that anything touching the king's person, his properties, or prerogatives was not to be treated without special consultation; the proceedings would be cut short with the words *loquendum est cum rege.* Sometimes for this reason the judges in a case received a writ to surcease; or quite as often they themselves refused to continue until they should have received a writ to proceed. Under such a constant check in the proceedings of the courts of law prosecutions of the king's officers were in the ordinary course impracticable. It was then in the nature of a concession that the king permitted his officers to be prosecuted, whether before a special commission, such as heard the state trials of 1290, or before the council as illustrated in the *Citizens of London* v. *the Bishop of Bath* (p. 8) and *Ughtred* v. *Musgrave* (p. 54). About half of the cases collected for the fourteenth century came before the council on this ground. These included not only those to which the king himself was a party, as in *Rex* v. *Middleton* (p. 35), *Rex* v. *Rouceby* (p. 37), etc. A private party like the defendant in *Bishop of Sabina* v. *Bedewynde* (p. 18) might plead his case solely in defence of the king's right, and the grievance of a suitor, as set forth in *Danvers* v. *Broket* (p. 97), might involve the integrity of the king's records. The long litigation initiated in *Heyron* v. *Proute* (p. 110) was complicated by the question of the jurisdiction of the king's court against any foreign court over English subjects. The king enjoyed an unlimited right of reserving cases for the consideration of the council. "For certain causes," "in order that the king may be better informed," "because the matter may be better debated before the council," [2] a writ to surcease might be issued and the matter taken out of the hands of the justices for further consideration. The same justices might then be invited to aid in the discussion within the council. But from what follows it will be seen that the king's interests were not unmixed with other considerations.

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[1] *Ancient Petitions*, nos. 12,289, 12,299.

[2] Ibid. 4642, quoted in *The King's Council*, p. 341.

From early times the council was concerned with the problems, both legal and diplomatic, arising from the outer world of maritime and mercantile affairs. Cases of this kind were not excluded from other courts, but because of their limitations neither local courts nor courts of common law were adequate for dealing with them. An alien had no right to sue as a plaintiff in the king's court, and as a defendant he might be difficult to reach by any ordinary process. Moreover conditions at sea were far different from those contemplated by the law of the land, while mercantile transactions were poorly protected by the native law of covenant. But a stronger reason for the interest of the council in these matters was the fact that the treatment of foreigners in England was closely connected with diplomatic intercourse, often treaty rights, involving questions of friendship and alliance with foreign states, e. g. *Cosfeld* v. *Leveys* (p. 32), *Rex* v. *Rouceby* (p. 37), *Lombards* v. *Mercers* (p. 42), etc. So that the king and council were never willing to lose control over these affairs by delegating them entirely to lesser courts. There was therefore coming to the council an unending stream of petitions complaining of seizures at sea, piracies, violation of treaties, spoil of wreck, etc. The council indeed rarely heard the cases, but endorsed the petitions, sometimes with a word of instruction, referring the complaint either to a court of common law, or the chancery, or creating a special commission for its determination. One of the earliest cases of this kind was a suit of certain merchants of Spain and Portugal heard in 1293 before a committee appointed by the king and council.[1] Our case of *Rex* v. *Rouceby* (p. 37) was heard by the council in 1354, just a few years before the beginning of the court of admiralty.

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[1] See Pollock and Maitland, i, 511 ff.

[2] *Cal. Close Rolls*, 29 Edw. III, p. 157; 32 Edw. III, p. 540; 38 Edw. III, p. 58; *Cal. Pat. Rolls*, 27 Edw. III, p. 434.

The need of a special court to relieve the council and the chancery of a share of this business is sufficiently obvious. Out of a custom of employing the admirals for judicial enquiries, as Mr. Marsden has shown,[2] from 1357 on they were granted extensive powers of jurisdiction, both civil and criminal, in cases arising upon the sea. In the rapid expansion of their authority there is evidence of an intention at the time to create a court of strong competence, like the court of chancery which was being enlarged at the same time. But there were limitations upon the admirals and defects in their courts that made their success in judicial functions far less than that of the chancellors. As a result of complaints in parliament against their usurpations and novel procedure, the Statutes of Richard II and Henry IV limited the admirals' jurisdiction strictly to maritime cases; they were given no power over inland waters, in the bodies of counties or within the liberties of the Cinque Ports.[3] Moreover there were grave abuses in the courts of admiralty as customarily conducted. There being two or three admirals at a time, of the north, east, and west, each of them held his jurisdiction separately from the others. Being more concerned with their naval duties, the admirals failed to give their courts the prestige of their personal attendance, leaving the work mainly in the hands of a deputy or sub-admiral. The courts were moved from place to place, to the great inconvenience of suitors. The sessions could be held only in ports, never in inland towns. Worse than this, the admirals permitted their courts to be obstructed by a dilatory procedure, by which technical forms were multiplied and litigation prolonged indefinitely. One case arising in the 13th year of Richard II was carried on for more than two years, in which as many as eleven sittings can be counted, at three different places, listening to bill, answer, replication, duplication, triplication, quadruplication, attestation of witnesses, and at the last stage it was found that the court must adjourn because the attestations were in the hands of the sub-admiral who was then in distant parts. At one point of the proceedings the record was taken to the chancery on writ of *certiorari*. Whether the case ever came to a final judgment is not known.[1] Another case, begun about 1389, was carried through twenty-nine sittings, interrupted several times by appeals to the council on questions of authority, until in 1404 the record was ordered by a *certiorari* to be sent to the chancery.[2] Under these conditions it is not strange that the jurisdiction of the admiralty throughout the fifteenth century continued to be contracted rather than expanded, while still other courts were being fashioned for receiving a share of the cases of international and commercial character.

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[1] R. G. Marsden, Navy Records Society, vol. xlix, pp. 12–18.

[2] *Select Pleas in the Court of Admiralty* (Selden Society, vol. vi).

[3] Statutes 13 Ric. II, c. 5; 15 Ric. II, c. 3; 2 Hen. IV, c. 11.

As a result, the principal part of this jurisdiction remained just where it had been from the beginning, primarily in the king's council, secondarily in the chancery. Parties illegally sued in the admiral's court under the statutes might recover damages, and thus the way was open for appeals from the court of admiralty on the ground that it was acting in violation of the statutes and in excess of its authority, or as it was usually stated that the judgment was " contrary to the law and the form of the court." The council listened to such appeals and in various ways showed itself distrustful of the judicial capacity of the admirals or their deputies. It was quick to interfere with the admiralty by orders to stay proceedings; sometimes it dictated to the admirals leaving them little independence of judgment; on one occasion it summoned the admirals to answer for their conduct. A case was heard in 1386 wherein the admirals were made defendants of their conduct in rendering a judgment, which was then reversed by a decision of the council.[3] Rather than run the risks attendant upon the court of admiralty, suitors might better seek redress in first instance from the king's council. As for foreigners, the council was their only recourse, until the chancellor also was permitted to hear them. This condition was far from satisfactory, for manifestly the council could not hear many of the cases presented or even give them passing attention. According to a complaint of the commons in 1439 it was likely to err on the side of leniency. At the suit of alien merchants, it was said, made before the king and council, sometimes before the chancellor, ships captured from the enemy were released and damages paid, to the injury of native shippers. It was therefore enacted that henceforth ships should not be released except by letters patent enrolled in the chancery.[4] In the treatment of these cases, the council might refer the matter to any of the courts mentioned, but the usual method, illustrated in *Wythum* v. *Men of Kampen* (p. 95) and *Duval* v. *Arundel* (p. 96), was the primitive one of creating a commission of oyer and terminer. Sometimes the commissions were given instructions by the council, and sometimes they were asked to make report of their findings. Often the parties were brought before the council and a discussion was held before the matter was given to the commission. If properly composed the commissions were not unserviceable. In 1429 the commons especially requested that the justices of the peace might be granted commissions of oyer and terminer to deal with certain rovers who were committing depredations on the sea.[1] In *Duval* v. *Arundel* the petitioners name the men whom they wish to be appointed as commissioners. The obvious deficiency of the commissions, generally disregarded at the time, was the lack of a coherent system of justice. Each case was treated by itself with a minimum of regard for precedent. Records of their proceedings were generally lacking, so that it was once suggested that commissioners who failed to deliver their processes and pleas into the exchequer should be punished. Even so, the commissions could never be a substitute for a court of strong competence and specialized function. This began to be appreciated by Henry VII who extended the powers of the admirals materially, and by Henry VIII who placed the court of admiralty upon substantial statutory foundation.

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[1] *Select Pleas in the Court of Admiralty*, no. 1.

[2] Ibid. no. 2.

[3] Given in *The King's Council*, p. 507.

[4] *Rot. Parl.* v, 27.

As the antecedent of the modern court of star chamber, the council has generally been represented as a court of summary jurisdiction in criminal cases. Contrary to a prevailing belief this was not its original function, but one that developed in time from force of necessity. There were always the crimes of great violence and oppression, named as riots, routs, confederacies, conspiracies, unlawful assemblages, forcible entries, maintenance of quarrels, etc. These were most dangerous when perpetrated by bands of armed men, often under the leadership of the most prominent knights in the counties, who might themselves be sheriffs, custodians of castles, justices of the peace, or in collusion with them. They intimidated courts, prevented the execution of writs, corrupted juries, held suitors in durance, and promoted litigation in the interests of their retainers. Sometimes we uncover a systematic endeavour on the part of a few strong men in a county by force and fraud to dispossess their weaker neighbours. But during the thirteenth, and most of the fourteenth century, the council was concerned not with the trial of such cases, so much as with the elaboration of legal ways and means for dealing with them. For this purpose the writ of trespass and several related writs, the court of king's bench, the keepers of the peace, and later the justices of the peace were each in turn established. Rather than hear a case of extraordinary atrocity the council would refer it to a commission of oyer and terminer, as in *Burton-on-Trent* v. *Meynell* (p. 41). In the present collection it is noticeable that no case of violence is heard at length by the council, distinctly on this ground, prior to the reign of Richard II. In *Parson of Langar* v. *Conyngsby* (p. 47) the parties were brought to an accord. In *Ughtred* v. *Musgrave* (p. 54) violence was involved, but the case was heard because the defendant was a sheriff. The first case of maintenance in fact to be given a complete hearing was *Esturmy* v. *Courtenay* (p. 77), and from that time others follow in rapid succession.

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[1] *Rot. Parl.* iv, 351, 377.

That the council should exercise any jurisdiction of the kind was reluctantly admitted in the statutes. The numerous statutes against maintenance and liveries, 20 Edw. III, 13 Ric. II, 16 Ric. II, 7 Hen. IV, etc., rely not upon the council but upon justices of assize and justices of the peace for their enforcement. The Statute 13 Hen. IV, c. 7, against riots seems to strike a new note in declaring that in default of the justices of the peace certification shall be made to the king and council, and punishment of the rioters shall be inflicted at their discretion. The act further provides that if the trespassers do not appear at the first precept, another precept shall be issued to the sheriff to bring them before the council or the king's bench; and if this means fail, then proclamation is to be made for the transgressors to appear before the king and council, the king's bench, or the chancery. But whatever authority was given to the council by this act was taken away by the Statute 2 Hen. V, 1st, c. 8, which reverted to former methods in placing the enforcement of the law preferably in the hands of special commissions. Again the Statute 8 Edw. IV, c. 2, the most vigorous act yet passed against liveries, specifies the king's bench, the court of common pleas, the justices of the peace, and commissioners of oyer and terminer; it goes far to legitimatize in the courts extraordinary procedure by bill, information and examination, but it carefully avoids designating the council. Only in vague language did parliament recognize the authority of the council in this class of cases, as in the proviso to an act of 1 Ric. II, "unless it be against such high personages that right cannot be done elsewhere";[1] and again, "unless there be too much might on the one side and unmight on the other." Moreover a survey of the petitions shews that the council was not popularly regarded as the only court for such suits. Quite as many petitions of this kind were addressed to parliament on this score; and the earliest petitions in chancery were of the same character. But parliament, which was reluctant to pass any general act to this effect, persistently referred individual cases to the council, e. g. *Atte Wode* v. *Clifford* (p. 86). At the close of the first parliament of Henry VI an entire file of "riot bills" was thus turned over. It was therefore by custom and general acquiescence that this part of the council's jurisdiction was established before the Statute 3 Hen. VII expressly mentions "maintenance, liveries, signs and tokens, retainers, riots and unlawful assemblages" as pertaining to the council sitting in the star chamber.

There is a remaining question, how far the council shared in the development of the equitable jurisdiction that flourished most widely under the chancellors in the fifteenth century. There is no longer any contention that equity originated with the chancellors or with any particular court. It is

[1] *Rot. Parl.* iii, 40.

known indeed to have existed in the *curia regis* of the thirteenth century, and was afterwards operative in the various courts of common law, including those of the itinerant justices.[1] From the beginning the council was broadly a court of equity, in that its action was a dispensation of the royal prerogative; it received cases on petition, it showed mercy and leniency in the application of the law, it admitted suitors legally disabled, it required specific performance in the restitution of goods and chattels.[2] There is a difference of opinion, however, whether the later equity, as developed by the chancellors, was a continuation of the earlier equity administered by the common-law courts, or whether we should regard the chancellors' equity as " a new, a distinct, and an independent development." [3] Dr. Holdsworth places the two phases in contrast to one another, while Professor Adams argues for the essential continuity of the principles of equity in the *curia regis*, through the courts of common law and into the court of chancery.[4] It remains to shew how far the council gave expression to the equitable principle, and what precedents it laid down for the court of chancery. In this enquiry special attention must be given to the cases of verbal agreements, trusts and uses, which, says Justice Holmes, were " the greatest contribution to the substantive law ever set down to the credit of the chancery." One of the most notable cases antedating the court of chancery in its equitable functions was that of *Audeley* v. *Audeley* heard in 1366.[5] In this instance a married woman without the concurrence of her husband, a *femme sole* having no standing at common law, was heard by the council in a suit against her father-in-law for the performance of a premarital contract. After a sharp contest, interesting in several points of procedure, there was an award requiring specific performance of the terms of the covenants under pain of £6000. In the Fraunceys case heard in 1392 certain parties, who proved to be dishonest executors, were examined before the council as to the existence of an obligation not produced in court.[6] Of trusteeship in goods and chattels there is the example of *Hogonona* v. *A Friar Austin* (p. 85) in 1401, wherein the petitioner alleges the loss of money and a breviary left in trust, and asks for a hearing before the council. But the council, as it appears, merely ordered his release from captivity without affording any further relief. In 1422 there was the full hearing of a case, *Langeford* v. *Prior of Gisburn*,[7] in which the petitioner seeks the return of certain jewels and other goods which the prior refuses to surrender. On the evidence of an indenture specifying the chattels loaned, the council decreed full restitution. The earliest cases of enfeoffments to use, the most significant departure in the history of equity, are extremely elusive because of gaps in the records. The earliest treatment of such a case is revealed to us by an appeal in parliament occurring in 1380.[1] Certain feoffees, having been impleaded in the chancery, were there examined, it is said, before the chancellor, lords and others of the king's council, as to whether the feoffment had been simple or with conditions. The final decree was made by the king and put into execution by the chancellor. It is of some significance that at this time petitions upon the subject began to be addressed to the chancellor.[2] But the petitioners seem still to have regarded the matter as under the jurisdiction of parliament or the council. This was the view taken certainly by one petitioner, who in the time of Henry IV besought the chancellor to command a trustee to come before the council, there to be examined, and to do further what the council should award.[3] The first time that the subject of feoffment to use was mentioned in these words was in 1402, when the commons apparently desired an act of legislation against disloyal feoffees, because they said " in such cases there is no remedy unless one be provided in parliament." [4] The matter was referred to the council, but whatever action may have been taken further we do not know. In the same year there was a case before the council, *Gunwardby and others* v. *Tiptoft and others*,[5] in which the feoffees and the beneficiary were plaintiffs. As the defendants failed to appear, there were several postponements, and all that we learn is an intimation that the parties were willing to treat out of court. Amid the general dearth of records it is a natural supposition that most cases of the kind were disposed of in this manner. In 1423 there is the minute of an examination before the council of the feoffees of Lady Neville, who acknowledged that they had been enfeoffed of certain manors for the purpose of paying the deceased lady's debts and for making a re-enfeoffment to her son and heir.[6] Since these cases all antedate any known proceedings of the kind in the separate court of chancery, they seem to warrant the inference that like other matters of equitable jurisdiction they originated in the council, whence the chancellors derived their special authority and inspiration. Further the extreme rarity of the cases and their usual failure to reach a conclusion suggest that the council, controlled as it was by conservative influences, did not welcome these suits or give them due attention. The chancellors, on the other hand, as soon as their authority was sufficient, received them gladly and professed their readiness to afford a remedy for every grievance. While the great bulk of equitable suits was then swept into the chancery, the council by no means relinquished its claim upon them. Cases like *Fouquire* v. *Nicole* (p. 118) and *Norton* v. *Colyngborne* (p. 115) still appear, but in the course of events the two courts were divergent in spirit. By reason of inherent character the council was becoming the great criminal tribunal, while the chancery by the enterprise of its head and members was finding its greatest usefulness as a court of equity.

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[1] See H. D. Hazeltine, *Early History of English Equity* (Essays in Legal History read before the Congress of 1913).

[2] This reputation of the court is reflected in the Statute 5 Ric. II, 1, c. 8, that those who lost their deeds in the late troubles were to present petitions to the king and council, when such remedy was to be provided as was just.

[3] See W. S. Holdsworth, *The Relation of Equity administered by the Common Law Judges to the Equity administered by the Chancellors* (Yale Law Journal, xxvi, 1–23).

[4] G. B. Adams, *The Continuity of English Equity* (ibid. xxvii, 550–563); also Columbia Law Review, xvi, 98.

[5] *Cal. Close Rolls*, 40 Edw. III, 237–239.

[6] *The King's Council*, p. 517.

[7] Nicolas, iii, 328–331.

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[1] *Rot. Parl*, iii, 79.

[2] Baildon, *Select Cases in Chancery*, nos. 40, 45, 71.

[3] Ibid. 99, 102.

[4] *Rot. Parl.* iii, 511.

[5] *The King's Council*, p. 522.

[6] Nicolas, iii, 20.

Finally, the council assumed the power on occasion to deal with heretics, necromancers, soothsayers, witches, etc. There are not many cases of this kind, but they are of interest as precedents for the greater activities of the modern court against freedom of thought; also as showing a possible connexion of the methods of the council with the heresy trials of the church. An instance, cited by the Ecclesiastical Courts Commission (1883) as taking place before the king's council, is the examination of William Buxton, accused of being a schismatic, in 1384.[1] The memorandum, however, gives evidence of being not a record of the council but a distinctly ecclesiastical document. Moreover the proceedings were conducted not before the council, but before the king and a special assemblage, predominantly laymen, in time of parliament. Chancellor Pole was present and took part in the disputation. The event only proves that the king's councillors came in contact with heresy trials. In 1388 Richard II, then under the domination of the Lords Appellant, appointed a commission to search for, take and bring before the council all the heretical books being put forth by disciples of Wiclif, and to arrest all persons buying and selling the same.[2] Again in 1392 at the request of the bishop of Hereford, who confessed his inability to arrest two men in his diocese said to be heretics, the king granted the bishop authority with the aid of the sheriffs to arrest the men, wherever they might be found, and bring them before the council.[3] Whatever may have been done by the council in these cases, we do not know. But in 1401 there is the clear instance of a soothsayer, John Kyme, who was brought before the council where he was examined and finally made to swear that he would never henceforth believe in false prophesies, or meddle with them, or speak privately or openly against the state of the king.[4] A few further cases of the kind, which were brought up from time to time, give the impression that the council was little disposed to attack heresy, unless it might be connected with political interests or breaches of the peace. Once it exhorted the bishop of Lincoln to act against persons accused of magic, sorcery, and necromancy.[5] Again, it made an examination of certain persons thus accused.[6] In 1441 one Roger Bolingbroke, a clerk implicated with the duchess of Gloucester in the attempt by magic to shorten the king's life, was examined before the council and made to confess that he had wrought the necromancy.[1] In the same year the Witch of Eye, who was involved in the same affair, was tried by a special commission, before whom the clerk of the council read the articles of examination, some of which the defendant denied and others admitted.[2] The special significance of these cases will be seen in connexion with the interrogatory examinations to be treated in the following section.

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[1] Wilkins, *Concilia*, iii, 191.

[2] *Cal. Pat. Rolls*, 430.

[3] Ibid. 40.

[4] Palgrave, *Original Authority*, p. 87.

[5] Nicolas, i, 288.

[6] Ibid. iv, 107; also 114; vi, 40, 45.

6. PROCEDURE

It was in methods of procedure more than in substantive jurisdiction that the council and the chancery were distinguished from the courts of common law. It is generally understood that the original influence in this direction came from the civil law through the practices of the ecclesiastical courts, though the extent of Romanist influence has been a matter of dispute. The very names "petition," "exception," "examination," "interrogation," "replication," "confession," "decree" are taken from the Roman vocabulary; at the same time it is significant that other terms of ecclesiastical law like "citation," "libel," "caution," "interdict," "denunciation," "deposition," "position," have been avoided in secular practice. Moreover the question of Roman origins is complicated by the fact that some of the methods of the equitable courts came by way of the common law. There was certainly no slavish imitation of the clerical system, but an adoption and adaptation of certain features that were found useful. A better analysis of the factors involved may be expected when a further publication of ecclesiastical cases shall have been made.

As has been said before, the first step to bring a suit or complaint before the council was a petition; a bill as it was commonly called in litigation. Compared with a writ of common law, a bill was the distinguishing feature of all equitable procedure, which existed to a degree in the exchequer and before the justices in eyre, as well as in the council, the chancery, and the admiralty. The original idea, and possibly the word,[3] may have come from the petition or supplicatory libel of the clerical courts, but there is no further likeness in form or character. The earliest of our secular petitions in fact are hardly different from letters and were probably composed by letter-writers. They came to be much more elaborate, but always retained a greater lack of formality than was permitted to other legal documents. Customarily the petition consisted of the address, the grievance, and the prayer. The address was to the king, the king and council, the king or lords in parliament, the council, or the chancellor, with other variations. There was no requirement that the petitioner should name the court for his suit; this might be determined later. There were in time many expressions to dignify the address, such as "good," "wise," "gracious," "honourable,"

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[1] *Chronicle of London* (ed. Nicolas, 1827), p. 128.
[2] *English Chronicle* (Camden Society, 1856), p. 58.
[3] W. C. Bolland, *Select Bills in Eyre* (Selden Society, vol. 30), p. xi.

"redoubtable"; the address too was likely to be set off in the margin and ornamented with flourishes of the pen, but these were mere embellishments for the purpose of inducing attention. The grievance was stated usually with brevity, the only elaboration being the horrible nature of the offence and the hardship endured, possibly to the extent of exaggeration. In this point petitions were apt to fail in giving essential particulars of time and place. One advantage that a petition had over the instruments of common law was that it might complain of "certain persons" or "parties unknown." Even a mistake in a name did not invalidate it, e. g. *Norton* v. *Colyngborne* (p. 115). In *Poche* v. *Idle* (p. 116) a space has been left for the name afterwards to be filled in. As the chancellor once remarked, "in this court it is not requisite that the bill should be in every point certain (*tout en certein*) after the solemnity of common law, for here there is only petition." Finally, the prayer was for remedy; it need not specify what remedy, which in fact was usually left to the court. It concluded with a pious exhortation, "for God," "for the love of God and in the way of charity," "we shall pray for you," "for the sake of the Queen," etc. Ordinarily the petition was prepared in advance, but sometimes the complainant appeared in court without any petition. Once after proceedings had begun, a complainant was requested to put her grievances in writing.[1] In some petitions there is internal evidence that they were actually prepared in court. A late requirement was that petitions should be duplicated one copy being for the use of the defendant.[2] In *Atte Wode* v. *Clifford* (p. 88, n.) we are told that one copy was left for a record with the clerk of parliament, while the other was given to the clerk of the privy seal. Again in contrast to a writ, petitions cost nothing to present, and it was sometimes urged as an argument against this procedure that it brought in no revenue.[3] It was not essential for a petitioner to appear in person; he might be prevented by poverty (e. g. p. 120). At the same time there was no obligation upon the court to hear a petition, so that suitors lost time and money due to the delay. Finally a written petition was never a positive requirement. In several of the cases, such as *Esturmy* v. *Courtenay* (p. 77) and *Danvers* v. *Broket* (p. 97), a complainant was permitted to make his charges orally before the council, and if the facts were thus clearly presented, it sufficed.

Further, the council took up criminal cases on "information" or "suggestion," by whomsoever it was offered. This was a mode of accusation that was creeping in as the earlier method of criminal appeal declined.[4] It differed from the appeal, in that it was unaccompanied by any challenge to battle; it might be offered either publicly or secretly, and was without traditional safeguards. There are instances in the time of Edward I, in which men were put to trial, without indictment, on criminal information, but they were then reputed to be rare.[1] Irregular as it was, the thing was done in parliament, in the king's bench, and before the justices in eyre. The king's council took up the practice and carried it to such a point that in the reign of Edward III there began to be heard protests. The statute of the fifth year, that no man should be attached by any accusation against the Great Charter or the law of the land, probably had reference to just this practice. The statute of the twenty-fifth year (5, c. 4) expressly enacted that none should be taken by petition or suggestion before the king or the council, unless by indictment or presentation. This act, if it had been carried into effect, would have precluded one of the most characteristic processes of the council. No doubt there was need of a system of accusation apart from the jury in favour of individuals. It is on record how a certain party, not daring to make his accusation openly, went to a father confessor and revealed the fraud that was being perpetrated upon his mother's will, in the hope that the matter would thus be made known to the king's council.[2] But as is frequently disclosed the danger of the system lay in its being applied on the slightest suspicion and even falsely and maliciously. In the twenty-eighth year there was an outcry that the king's purveyors, because legal proceedings had been taken against them, were making false suggestions in order to bring their opponents before the king and council.[3] The Statute 27 Edw. III, several times reënacted, required accusers to offer security to prove their suggestions before the council as well as in other courts. Parties gave assurances in various ways, offering to prove their assertions, swearing to their truth, and promising to give satisfaction if their complaints should not prove to be true. In one case an accuser declared himself ready to prove all things contained in his bill on pain of loss of life and chattels.[4] By act of parliament in 1394 the chancellor was given power to require the parties suing for writs of summons and arrest to find sufficient pledges and surety for the truth of their suggestions.[5] Thus there arose the practice, adopted in the chancery and also in the council, of requiring the names of persons giving surety, the *plegii de prosequendo* as they were called, to be written in the margin of the bill. An example of this device is given in *Norton* v. *Colyngborne* (p. 115). Since security of this kind was not always required by the council, the fear of malicious accusations was hardly diminished. There was an inclination also on the part of defendants to offer surety. Once the parties against whom information had been laid offered their bodies for due punishment, in case the charges were found to be true.[6]

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[1] Nicolas, ii, 287; also *The King's Council*, p. 511.

[2] Nicolas, ii, 289; v, 291.

[3] *Rot. Parl.* iv, 84.

[4] On appeals of crime see Stephen, *Hist. of Criminal Law* (1883), i, 244–250.

Encouraged by the council, the practice of seeking information became a wide-spread system of public espionage. One of the writs in use cited persons "to give information and to do and receive whatever shall be required by the council." In the reign of Richard II a reward was offered to those reporting evasion of the customs, and again announcement was made that informers would be heard. In the reign of Henry IV there is extant a lengthy deposition of one William Stokes, who sets forth how it is the duty of every loyal subject to safeguard the honour and profit of the crown, and informs the council of certain illegal exportations of wool.[1] Sometimes the information was presented in a petition, suggesting the arrest of this or that party, in one instance pointing out a spy.[2] In 1420 there is a letter of Thomas Erpingham, himself a member of the council, acquainting the chancellor of the probability of a riot in Suffolk.[3] Parliament was with good reason suspicious of informers and was as a rule averse to the system of trial without indictment, but there were times, nevertheless, when it sanctioned the practice. In 1423 the commons expressed their willingness that in cases of persons carrying gold out of the country, any one giving notice of the fact to the council or the treasurer should receive half of the goods forfeited, but the king consented to his receiving only a fourth part.[4] Again the Statute of Liveries, 8 Edw. IV, c. 2, declared that every informer should be admitted in the courts to sue for the king and himself, being required only to swear on a book to the truth of his assertions, and such information should stand instead of bill or original writ. Finally the Statute of the Star Chamber, 3 Hen. VII, warranted the procedure of the council "upon bill or information."

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[1] Pollock and Maitland, ii, 662; for examples see *Oxford City Documents* (Oxford Hist. Soc.), p. 204; *Rot. Parl.* i, 172; *Mem. de Parl.* 255, etc.

[2] *The King's Council*, p. 518.

[3] *Rot. Parl.* ii, 260; also *Cal. Close Rolls*, 28 Edw. III, p. 72.

[4] *Cal. Pat. Rolls*, 38 Edw. III, p. 502.

[5] *Rot. Parl.* iii, 323.

[6] Nicolas, v, 166.

Next in order were the writs of summons and arrest, by which parties could be cited, and, if need be, compelled to appear before the court. It is well known that in the reign of Edward III there were devised in the chancery certain summary writs, the *quibusdam certis de causis*, the *præmunire*, and the *subpoena*. The first appears as early as 1346, the latter in 1363. These differed from any corresponding instruments of the common law in their initial clause, failing to give cause of the suit or prosecution,[5] and in the method of their issue without registry or enrolment. From what is now known, these writs were not derived from any example set by the ecclesiastical courts, but were evolved out of the formulae already in use for administrative rather than judicial purposes. The significant clause *quibusdam certis de causis* commonly appears in such writs and precepts as the *certiorari* and *supersedeas* from the time of Edward I. Likewise the final penal clause was new only in its particular application.[6] The first use of the penal clause in the *præmunire*, the writ to the sheriff, is given in our case *Lombards* v. *Mercers* (p. 43). There is a tradition of long standing, voiced by Sir Francis Palgrave and the Dictionary of National Biography, that the ingenious author of the writ of subpoena was no other than John of Waltham later bishop of Salisbury. The assumption is based on a complaint of the commons as late as the reign of Henry V, when they rashly declared that such writs were a novelty, never known before the time of Richard II, which were invented by the late bishop of Salisbury.[1] Now John of Waltham was not even a clerk in the chancery in 1363 when the writ appeared. He is then noticed as a servant of the bishop of Salisbury.[2] He was a clerk in the chancery hardly before 1374,[3] master of the rolls in 1381 and keeper of the privy seal in 1386. In view of these conflicting statements, it is very likely that as keeper of the privy seal Waltham was responsible for the translation of the subpoena into French and its issue under the privy seal. This was the novelty not known before the time of Richard II, against which the commons had reason to complain. It is noticeable that there had been no direct complaint against the subpoenas as originally issued in the chancery, and in the fifteenth century it was the subpoena under the privy seal that especially stirred resentment. Thus John of Waltham, if he did not originate the writ, may at least be credited with converting it into its most detested form, and for this, many would say, he deserves his evil commemoration.

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[1] *The King's Council*, p. 523.

[2] *Ancient Petitions*, 14,948, 15,198.

[3] Nicolas, ii, 272.

[4] *Rot. Parl.* iv, 252; again vi, 184.

[5] "The law willeth not that any should be taken by surprise in the King's Court. . . . She (defendant) must have notice in the writ of the articles on which she will be arraigned, and that is the law of the land." *Year Books* (Selden Society), 5 Edw. II, p. 44.

[6] See the writ to the sheriff of Essex in 1232, to arrest Hubert de Burgh and bring him to London, "sub poena quattuor millium librarum." *Cal. Close Rolls*, 16 Hen. III, p. 161; *Royal Letters* (Rolls Series), i, 523.

Thenceforth the subpoena, whether under the great seal or the privy seal, was the preferred instrument of the council and the chancery. It was also used, we are told, in the exchequer,[4] and in special emergencies by parliament. But instead of adopting it, parliament was averse to a process so repugnant to the common law, and sought to effect its modification. It should be used only in emergency, "as deemed necessary at the discretion of the chancellor or the council." [5] Among the proposals of reform, it was suggested that the subpoena should be enrolled and made patent, its misuse should be ground for an exception, and a clerk who issued one wrongly should be punished, but the king would consent to no such nugatory measures. At length, under the stress of Jack Cade's rebellion, parliament legitimized the writs, in riot cases only, for a period of seven years.[6]

There were also writs of attachment and arrest, though such a process was not always more cogent than a subpoena. In our case of *Esturmy* v. *Courtenay*, a writ of arrest had already failed, when the earl of Devonshire by a subpoena was told to bring Robert Yeo with him. This was a variant of the usual subpoena, afterwards known as *ducens tecum*. A writ of arrest was commonly issued to a sheriff, a serjeant at arms, and perhaps other competent persons, who were to find and bring the party wanted before the court on a given day. Once the commissioners were told to bring their captives "honourably" before the king and council;[1] more often they were asked to keep them safely. In an extreme instance the council, on information that certain marauders were active in Kent, Surrey and Middlesex, appointed a commission to arrest all suspects and imprison them until further order.[2] In one case the commissioners were threatened with a penalty of £1000.[3] On the failure of all other means, the most drastic measure possible was a proclamation of outlawry. By a writ duly issued to the sheriff public announcement was made throughout the county that so-and-so should appear, or be made to appear, at a time and place, or suffer the severest penalties. In the case of a noted outlaw, "a certain son of iniquity," proclamation was ordered in all the fairs and markets of Bedford and Buckingham, that whoever should arrest him or produce his body or his head, alive or dead, should receive a reward of £100.[4] In one of the later years of Henry VI there is an instance of the successive use of writs of the privy seal, writs under the great seal, a proclamation, a commission of arrest and finally another proclamation under threat of forfeiture.[5]

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[1] *Rot. Parl.* iv, 84.

[2] *Cal. Pat. Rolls*, p. 358.

[3] *Cal. Close Rolls*, p. 86.

[4] This was alleged in the aforesaid complaint of the commons; no writs of the kind however have been seen.

[5] *Rot. Parl.* iii, 471; also 267; iv, 156.

[6] Statute 31 Hen. VI, c. 2.

Pending trial, or during the intervals of a trial, parties were committed to prison for indefinite lengths of time; two or three years of durance were nothing extraordinary. An accuser might be committed as well as a defendant. The law which safeguarded judgments of life or limb was quite indifferent to the abuses that grew up under this system. But for those who could find security, "mainprise," a system of bonds slightly different from bail, was willingly allowed. "Mainpernors," as the sureties were called, bound themselves in sums of money, sometimes as high as £5000 or £10,000, *corps pur corps* to have the party wherever wanted on a given day, and in some cases made themselves responsible for his good conduct during the interval. Mainpernors, it was once decided, should not be released of their sureties when the party came to court, but only after he had pleaded to the issue.[6] The amounts of money, like the sums stated in the subpoena, were theoretical, suggesting the seriousness of the matter involved, but were never strictly exacted. Illustrations of the use of mainprise are afforded in the texts of *Lombards* v. *Mercers* (p. 45), and *Release of the Sureties of John Davy* (p. 108). The obligations were at first by no means so perfunctory as they afterwards became, and offered a means of constraint no doubt more effective than most prisons. But in connection with the system of arbitrary arrest the practice was liable to abuse. Parties complain that in their inability to give security, they must perforce treat with their enemies or else go to prison.[7]

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[1] *Cal. Pat. Rolls*, 49 Edw. III, p. 156.

[2] Ibid. 23 Ric. II, p. 597.

[3] Nicolas, v, 241.

[4] Ibid. iii, 256.

[5] *Cal. Pat. Rolls*, 37 Hen. VI, p. 493, also, p. 516.

[6] *Year Books*, 13–14 Edw. III (Rolls Series), p. 72.

[7] *Rot. Parl.* iv, 84.

The parties were told to come before the council, *ubicumque fuerit,* on a given day, ten days or a fortnight being usually allowed in the writs, and then they must attend from day to day, even from hour to hour, until their names were called at the door of the chamber. According to the circumstances they were to appear " in proper person," or, if allowed in the writ, they might appear by proxy or attorney. Litigants were likely to appear in person at the first sitting, and then with the permission of the court leave the matter to attorneys. In all civil suits the parties were required to make full submission to the court, *in alto et basso.* This was deemed essential, for one could hardly be bound without his own consent to an extra-legal procedure. Once it was declared that without a submission the trial could not go on.[1] The final award was likely to be made expressly on the ground of such a submission. Petitioners often expressed their willingness to submit to the council, and sometimes offered bonds as high as £5000.[2] Thus no exception could afterwards be taken to the jurisdiction of the court. The case was opened with the reading of the bill, or its equivalent, and then if desired an adjournment was taken. The pleadings followed. In this feature there was a gradual change from the oral pleadings of the first half of the fourteenth century to the written pleadings afterwards elaborated. The council was slower than the courts of common law to change to written pleadings, and then it adopted the methods of the civil law in the answer, replication, duplication, triplication, etc., which like certain other features of equitable procedure are noticed first in the courts of common law.[3] Still, oral pleadings in the older style continued into the reign of Richard II.[4] The object of each plea was to defeat the claim of an opponent on grounds independent of its truth. It was likely to present an exception, rarely a demurrer. In contrast to the method of the common law the aim of the pleadings was to reduce the issue, rather than join the issue. The great danger of this form of argument was prolixity, such as became the scandal of the admiralty and the later court of chancery. But the council was successful in keeping its proceedings within reasonable bounds. Replications, which were restricted in their scope to the matter already outlined, were infrequent, while duplications and triplications were almost unknown.[5] A variant of the traditional practice is seen in the method of reducing the claims of the parties to a series of articles, in which each claim and answer are dealt with singly.[6] After the pleadings, the matter in dispute was put to proof according to the needs of the case. Most often this consisted of an examination of the charters, letters, and other writings which the parties were required to bring. The record of any court, or an exemplification, could be brought in by writ of *certiorari*. Juries were never directly employed; if the verdict of a jury was required, a writ of inquisition was issued to a sheriff. Witnesses were usually not necessary, but were cited and examined whenever wanted. If more searching means were necessary, the parties and witnesses were put under oath to tell the truth, and then were subjected to an inquisitorial examination, a method that will be discussed in connexion with criminal trials. By such means, it will be seen, the council and the chancery were peculiarly well fitted for eliciting evidence in the equitable cases of trusts and verbal agreements, which were quite elusive to the methods of the common law.

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[1] *Cal. Close Rolls,* 40 Edw. III, p. 238.

[2] Ibid. 51 Edw. III, p. 547.

[3] See Britton, i, 142; *Year Books,* 1 and 2 Edw. II, p. 57.

[4] E. g. Suit of John Cheyne, *The King's Council,* p. 513.

[5] They are mentioned in Nicolas, ii, 295.

[6] *Cal. Close Rolls,* 40 Edw. III, pp. 302–305.

In criminal trials the defendant was required to come in person and answer the charges, which were most likely not known to him in advance. He was of course not allowed the advantage of counsel, and he might or might not be faced with his accusers. If he did not immediately confess or satisfactorily explain the charges, he was put to the method known as the interrogatory examination. This was an acknowledged feature of the civil and canonical law, which in its extreme form was pursued by the church especially but not exclusively in heresy trials. It was a method that was creeping into secular practice, in the courts of king's bench and common pleas, as early as the reign of Edward I.[1] Sometimes it was administered out of court, by juries examining witnesses, and in one instance a preliminary examination, having been conducted by certain clergymen, was made to serve instead of an indictment.[2] In the reign of Edward II, a plaintiff alleged that he had not been duly summoned; the summoners were then haled to court and examined; of one of them it is said that he was sworn and examined by the justices.[3] As it appears in the beginning, there is not the slightest ground for the current belief that the practice was instituted by the chancellors, however much they made use of it at a later time. In the hands of the council the interrogatory method can be observed in such cases as *Rex* v. *Gerdeston* (p. 30), *The Examination of Gilbert Blount* (p. 33), *Ughtred* v. *Musgrave* (p. 59), and others. As practically administered the examinations were of several kinds or degrees, according to the nature of the case and the advancement of the art of questioning.

(1) In civil cases, also in criminal cases of forgery, counterfeiting and the like, there was an examination consisting of an inspection of documents, a comparison of records, a scrutiny of seals, coins, etc. In such matters the clerks of the chancery were the acknowledged experts. Likewise persons before the court were examined in order to ascertain whether they were minors, deaf mutes, madmen or lepers.

(2) Then there was a mild form of interrogation, later known as *ore tenus*, wherein no oath or means of constraint was applied, which was intended merely to elicit a confession or secure certain information. This

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[1] *Abb. Plac.* pp. 246, 293, 330, 331, etc.

[2] Ibid. p. 345.

[3] *Year Books*, 1 and 2 Edw. II, p. 19.

was often forthcoming when the person without severity was " spoken to " or " reasoned with." It was a severer form when the parties, defendants, plaintiffs, and even witnesses were put under oath or otherwise solemnly charged to tell the truth and answer whatever might be asked of them. It was a powerful weapon in the hands of the court, entirely averse to the common law, that could thus question a defendant and require him to incriminate himself. Whenever several co-defendants or witnesses were examined in turn separately, as in *Esturmy* v. *Courtenay* (p. 79), any contradictions or discrepancies in the testimony would easily be noticed. The admissions or confession of any one could of course be used as information against the others. The questions were not necessarily prepared in advance, but were asked informally and adapted to the pliability of the witness. The aim at all times was to extort confessions, without which a condemnation might be of questionable validity.

(3) By a still stricter method, taken over bodily from the church, a set of questions based upon the allegations in hand was carefully prepared in advance. These were propounded to the witness singly and his answers recorded. The case of *The Chamberlains* v. *Chesterfield* in 1366 [1] is an early example of the written questions and answers, while the *Bedford Riot* (p. 104) in 1439 affords the most perfect illustration that we have of the kind. The questions were elaborated and propounded by the court, never, so far as appears, by the parties to one another. They were put by the chancellor, or whoever was presiding at the moment.

As was true of other features of extraordinary procedure, the interrogatory examinations were not the exclusive possession of the council and the chancery. The same method was applied, though not frequently, in the king's bench, in the exchequer, and even in parliament.[2] But what was elsewhere an exceptional expedient, became the common practice of the council. With some inconsistency, parliament objected to the examinations as a subversion of the law of the land, making special criticism of the fact that they were held without record or entry.[3] At the same time parliament did much to encourage the system in individual cases, and even legitimatized it in certain statutory offences. This was probably the intent of the Act 8 Ric. II on false records, wherein the king and council were authorized to proceed " after the manner and form that seemed to them reasonable." The Statute 13 Hen. IV on riots granted that offenders should be " put to answer " and punished by the king and council. Again the Statute 8 Edw. IV on liveries permitted all the courts to proceed " as well by examination as by trial."

Seldom if ever were the examinations carried on in full council. The method was peculiarly well adapted to committees which were constantly employed for such work. There was as yet no system of appointing committees, much less were there any standing committees. Under the elastic organization of the council it was not required that more than four be in attendance for matters of minor concern; often there were but three. But on occasion it was expressly given to "some of the council" to make an examination of the question in hand and report their findings. The committees might be named by the king, but sometimes they were deputed by the council itself. Once in considering the claims of alien prisoners the council found itself too busy to go into the evidence, and so committed the matter to a bishop and a layman for inspection and examination.[1] On another occasion the council agreed to act in accordance with the report of its committee.[2] In *Legat* v. *Wodeward* (p. 92), a case pertaining to the king's revenues, the inquiry was given to the treasurer and barons of the exchequer, who returned the certification here given at length. In the Fraunceys case two examiners went to a private house where the witness lay sick.[3] In imitation of the professional examiners employed by the church, there were in the chancery certain clerks mentioned as regular "examiners." [4] No examiner however in the council appears before the time of the Tudors. In spite of the fact that the interrogatories were antipathetic to the common law, they were persistently given to judges to administer whenever judicial questions were involved, until complaint was made in parliament that they were thus being kept from their regular work of hearing pleas.

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[1] *Cal. Close Rolls*, 39 Edw. III, p. 114.

[2] E. g. the case of the bishop of Exeter in 1351 (*Rot. Parl.* ii, 245), and of Ralph Ferrers in 1380 (ibid. iii, 93).

[3] Ibid. iv, 84.

One other mode of delegation adopted by the council from the common law was by writ of *dedimus potestatem*,[5] whereby an examination or any other function of the court might be performed at a distance. The commissioners were likely to be local men not otherwise connected with the court. The method had its advantages but encouraged the evils peculiar to affidavits. So far as the records shew it was sparingly used by the council,[6] but cultivated extensively by the later court of chancery.

With all these agencies of assistance, in most cases all that remained was a final hearing or "rehearsal" of the matter before the council. Unless there was need of deliberation, the trial was speedily brought to a conclusion. Everything, so far as possible, was reduced to writing, and in the longer cases an orderly record or engrossment was made of the entire proceedings. Points for debate were few and easily singled out. The councillors were finally asked for their opinions (*sententiae*), and on the most formal occasions these were required of the lords individually. There was no rule as yet in favour of beginning with the lowest rank. The judges, when asked for their advice, gave it jointly. It was a rule repeatedly enacted that the majority (*major pars*) should decide. Before a final decree was reached, in all equitable cases, reference must be made to the king, for the essence of all such jurisdiction was a dispensation of the royal prerogative. In contrast to the courts of common law, the council and likewise the chancery were given little authority by general warrant, and so required a special warrant in each separate case. Whether the decree should then be pronounced by the council, or by the king on advice of the council, usage is conflicting.[1] In either event, the final decree is the one part of the record that must be written in court. In the briefer cases this was done on the dorse of the petitions, otherwise on a separate parchment. Whether because few cases came to a final decree, as the writer believes, having been settled informally either in or out of court, or because there has been a disproportional loss of such records, few of these decrees are extant. The case of *Whele* v. *Fortescue* (p. 117) affords a good illustration of a decree in the star chamber.

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[1] Nicolas, i, 190.

[2] Ibid. 192.

[3] *The King's Council*, p. 519.

[4] *Year Books*, 3 Edw. II, p. 109.

[5] Ibid. 3 and 4 Edw. II, pp. 151, 191; 12–13 Edw. III, p. 182.

[6] E. g. Nicolas, ii, 288; vi, 271.

Finally, as to punishments and penalties, fines were imposed, and imprisonment and chastisement inflicted without definite restriction. But in view of the extra-legal character of its procedure, the council acted in these matters with marked caution. Although the limitation as to life and limb, desired by parliament, failed to be enacted in the statutes, the council never failed to observe it. Even the lesser forms of bodily mutilation, such as slitting the nose and lopping off the ears, inflicted by the modern court, were not known in the middle ages. Only one of our cases (p. 104) mentions such a thing as the pillory. The penalties threatened in the subpoena and other instruments were theoretical, to be understood as an intimation of the seriousness of the matter in hand, and never literally exacted. Fines were usually in the form of amerciaments, being adjusted not in proportion to the offence but whatever could feasibly be exacted in return for a pardon or release. Imprisonments were indeterminate, "until it is otherwise ordered." The Fleet was the prison particularly used by the council and the chancery. Severe sentences were passed upon highwaymen, fraudulent merchants, and pirates; sometimes also upon peculant ministers, as in *Rex* v. *Middleton* (p. 37). Quite as often without any sentence, but as a result of a trial, an officer was dismissed in disgrace, e. g. *Rex* v. *Musgrave* (p. 54), *Danvers* v. *Broket* (p. 101). Even when criminality was involved the council seemed to prefer the course of a civil suit, in which the parties voluntarily submitted, e. g. *Atte Wode* v. *Clifford* (p. 89). Here the defendant was required to make restitution but escaped immediate condemnation. In the treatment of knights and nobles, who were constantly proved to be malfeasors, there was shown a surprising degree of leniency and timidity. The severe sentence passed in *Esturmy* v. *Courtenay* (p. 81) is exceptional, and then the defendant was recommended to mercy. Punitive sentences upon men of rank may be found in parliament, but before the council they were rare. However much they were threatened,[1] there was hardly another instance, prior to the Tudors, in which a knight or a lord was punished in any degree proportional to his offence. In the cases of great feuds, the council was inclined to bring the parties, if possible, to an accord, e. g. *Neville* v. *Neville* (p. 101). It manifested great faith in oaths and bonds as surety for good conduct. Most of all the council under the Lancastrians was in the control of lords and knights, who were themselves too far involved in the practices of livery and maintenance to take any vigorous measures against them. Under the Yorkists some of the worst known cases of violence and oppression occurred, yet the council was feeble in dealing with them. Political partisanship was sometimes involved. In *Poche* v. *Idle* (p. 116) the last stage of impotence and disruption seems to have been reached, when the best hope of the complainant is that one great lord may be set against another in her defence. Thus far statutory authority was lacking, which was not clearly granted until the Act 3 Hen. VII, among other provisions strengthening the court, directed the council " to punish such as they find defective."

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[1] In a suit in 1393 the king decrees and the chancellor is to make execution. *Rot. Parl.* iii, 311.

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[1] E. g. Nicolas, v, 175; vi, 181, 206.

PART II

NOTES ON THE CASES

Boistard *v.* Cumbwell. — Taylor *v.* Rochester. — Valence *v.* Bishop of Worcester. — Citizens of London *v.* Bishop of Bath. — Bishop of Sabina *v.* Bedewynde. — Rex *v.* Gerdeston. — Cosfeld *v.* Leveys. — Rex *v.* Middleton. — Rex *v.* Rouceby and Avenel. — Burton-on-Trent *v.* Meynell. — Lombards *v.* Mercers. — Parson of Langar *v.* Conyngsby. — Molyns *v.* Fiennes. — Ughtred *v.* Musgrave. — Lowestoft *v.* Yarmouth. — Taylors *v.* Brembre. — Petition of the Hansards. — Esturmy *v.* Courtenay. — Tenants of Winkfield *v.* Abingdon. — Atte Wode *v.* Clifford. — Wythum *v.* Men of Kampen. — Duval *v.* Countess of Arundel. — Danvers *v.* Broket. — Neville *v.* Neville. — Confession of John Forde. — Examination into the Bedford Riot. — Heyron *v.* Proute. — Tenants *v.* Waynflete.

BOISTARD *v.* CUMBWELL

1243 The first case that we are able to present was considered to require the attention of the council on account of the international question involved. It was an action of novel disseisin, the defendant maintaining that the plaintiff was not the heir, but that the heir was the plaintiff's elder brother. That brother, however, lived in Normandy, and had done homage to the bishop of Bayeux, who was a homager of the king of France, with whom, and therefore with his feudatories, Henry was at war. If the rightful heir were thereby incapacitated from inheriting, was the ejection of the next heir by the defendant, the superior lord, a disseisin? In whom, in short, in this state of facts, did the seisin reside? It is unfortunate that owing to the absence of the "chief justiciar," the archbishop of York, no record remains of the final judgment of the council. Nevertheless, the law on the subject of the tenure of land by persons abroad was sufficiently established, and in the year 1244 was put in execution on a large scale.[1]

The heir by right of birth to three carucates of Berkshire land, Roger Boistard, though resident in Normandy, does not appear to have been an alien born. But he was involved in a mesh of conflicting feudal obligations not uncommon in those times. He is described as being in fealty to the king of France and as having done homage to the bishop of Bayeux. He would do fealty as a freeholder, and probably to a royal official;[2] but homage imported a more intimate relation and was a ceremony which could only be performed between the lord and the tenant in person.

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[1] Matthew of Paris, iv, 288. "Normanni qui terras in Anglia habuerunt privantur eisdem jussu regis Angliae, rege Francorum causam suscitante."

[2] Littleton, § 92; Coke, *1 Inst.* 68 a.

Further, homage involved a presumption that the tenure was by knight service[3] and the sympathies of the holder of land would naturally rank themselves with the extent of his territorial interest. In England, at least in this case, it only extended to their ploughlands.[4] We may infer, therefore, that Roger elected as his place of abode the scene of his social importance. Moreover, " one becomes a lord's subject by doing homage to him, and this done, the nationality of one's ancestors and the place of one's birth are insignificant." [5]

At a time when powerful persons held land both in Normandy and England it was impossible to assert a principle of an exclusive nationality determined by place of birth. As a matter of theory in England, Normandy, though step by step occupied by the French forces, remained under the allegiance of King Henry. As a matter of fact, the power which proved strong enough to compel the Anglo-Norman landowner on the other side of the Channel to feudal obedience exercised a legal as well as a practical pressure upon him. Nevertheless, his services were due in respect of his land in England to his feudal lord there, and Bracton and Britton have no hesitation in prescribing the course of conduct incumbent upon him. His personal services are due to the superior lord[6] to whom he has sworn allegiance[7] by homage. " For allegiance is of so high a nature, that if two lords are at difference, the tenant must perform his service to his liege lord against his other lord in his own person, and must perform his service to his other lord by attorney. And homage is so strong a bond between lord and tenant that none may without judgment or the mutual consent of the parties recede from the homage so long as the tenant shall keep in his hands the tenements or fees for which he is bound to perform such service." [8] The ideal landholder, therefore, while he himself will appear with his Norman retainers in the French camp, will have taken steps to insure the presence of the English contingent due from him in respect of his English land in the opposing army. Bracton quotes two instances of eminent personages who acted upon this principle during the sixty years' struggle for Normandy.[9]

It is not likely, human nature being what it is, that respect for these feudal contentions restrained lords or heirs in England from laying hands on the land of those serving with the king's enemies abroad. Bracton gives by way of illustration of the use of exceptions an imaginary case on all fours with that in our text. " If," he says, " a man living in obedience to the king of France claims land against you, you may except against him"; your exception, however, is not a "peremptory," it is but a "dilatory" one. It may lose its force when the king enjoys his own again.[10] That condition remained unfulfilled and it is probable that the land, having been seized into the king's hand, was released to neither litigant, but shared the lot of other such properties in the following year.[11]

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[3] Coke, *1 Inst.* 67 b.

[4] The knight's fee was, it is true, an indeterminate area. See Pollock and Maitland, i, 235.

[5] Ibid. 443. Homage could be done to more than one lord, " liege homage " to one only.

[6] Bracton, fo. 427.

[7] "Ligeance, a ligando, being the highest and greatest obligation of dutie and obedience that can be." Coke, *1 Inst.* 129 a.

[8] Britton, ii, 41, 175 b.

[9] Bracton, fo. 427.

TAYLOR *v.* ROCHESTER

1292 The need for a tribunal, such as the council, exercising a control over royal officers, and especially over the judges, is well illustrated by the case of Taylor against Sir Solomon Rochester. It belongs to a dramatic moment of English history when King Edward I imprisoned and fined the judges who during his absence of three years in Gascony were proved guilty of having abused their powers and perverted the course of justice. A royal commission was appointed on 13 October, 1289, to investigate the "clamor miserorum" with which the king's ears were assailed upon his return. The constitution of this commission and its proceedings are set out at length in the Introduction to the *State Trials of the Reign of Edward the First,* published by the Royal Historical Society (Camden Series) in 1906. The trials which there follow are select cases, and the defendant of these papers, Sir Solomon de Roucestre, or Rochester, is prosecuted upon other charges (pp. 11–17, 67–70). In the present instance the offence alleged against him belongs to 3 February, 1289, and the complaint may have been one of those which overwhelmed the king on his return home and led to the subsequent investigation. But the published analysis of the rolls shews that it was not one of those cases upon which Rochester was actually tried.

Of the complainant Huwe le Tayllur, or Hugh the Tailor, we know nothing except that it may be inferred from the substance of his complaint that his name had already ceased to designate his trade, and that he was, in fact, a prosperous farmer. Sir Solomon Rochester was an ecclesiastic who had been employed by Henry III in a legal capacity, and had as long before as 1274 served as a justice in eyre for Middlesex and after that year for other counties. That he had ever gone circuit in Wiltshire appears to be a fact hitherto unknown to his biographers.[1] He is mentioned from time to time as one of the king's council. The rolls preserving the inquiries of the "auditores querelarum," who sat for three years at Westminster, contain four cases in which he is accused of perverting justice. That his conduct must have been exceptionally scandalous is to be inferred from the fact that the fine imposed upon him, the huge sum of £2,100, was third in order of magnitude of those exacted from the ten principal delinquents.[2]

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[10] Bracton, fo. 298, 415 b, 427 b, 428 b. Pollock and Maitland, i, 444. See also *Bracton's Note Book* (Ed. F. W. Maitland, 1887) ii, case 110. The phrase used by Bracton in stating a similar case on fo. 415 b, "donec terrae et regna communia extiterint actio talibus denegatur," confirms Pollock and Maitland's interpretation of "donec terrae fuerint communes" as against that of Coke, *1 Inst.* 129 b. See Pollock and Maitland, i, 445 n.

[11] See n. 1, p. xlvii.

[1] See *Dict. Nat. Biog.* The commission is given in *Cal. Pat. Rolls,* p. 311.

After this time he ceased to be employed as a judge. Two other persons mentioned in this bill of complaint also appear in the above-mentioned State Trials. Hugh le Taylour files a complaint against Sir John de Wotton,[3] who had been sheriff of Wilts in 1281, and his complaint is successful.[4] It is not a violent inference that, assuming the story told by Taylor in the present case to be true, Wotton's conduct was prompted by personal animosity. The local names suggest that the complainant and defendant may have been neighbours. Wotton is, it is true, a not uncommon place-name. But it happens that the place of that name in Wiltshire, known as Wotton-Basset, is only ten miles from Wanborough, where Sir John seized some of the complainant's chattels. Of the nominal plaintiff, John de Tauy, in the proceedings of which Taylor complains, we hear nothing, except that he was the stalking-horse employed by Rochester. An execution was levied on Taylor's lands for the large sum of £40. The demand, indeed, was for £50 and, inasmuch as Taylor alleges that there were other goods to satisfy the claim, it is not clear why the sheriff's bailiff elected to commit an illegality by seizing the beasts of plough while neglecting to realize the sum sued for. At any rate, it is alleged that, although the law forbade the seizure of beasts of plough, and even laid upon justices in eyre the duty of inquiring into statutory offences of this kind, Rochester, himself a justice in eyre, sanctioned these proceedings. The plaintiff estimates his losses at £22. A comparison of his figures, unfortunately incomplete, with those of the prices of stock published by Thorold Rogers in his *History of Agriculture and Prices* shews that his estimates erred on the side of moderation. Of the offence of maintenance, with which Rochester is charged, a common mode of oppression in the Middle Ages, enough is said in the notes. It long survived the fines and penalties inflicted by the retributive justice of King Edward I.

VALENCE *v.* BISHOP OF WORCESTER

1294 The case of William of Valence against Godfrey Giffard, bishop of Worcester, is one of those thought by Hale worthy of transcription into his MS. collection. It has this feature of interest among others, that it was heard by the king and council when the court was at Estry, near Sandwich, Kent, in 1294. The protagonists were personages of the first rank, the plaintiff being, on his mother's side, the king's uncle and the bishop chancellor of the exchequer. At first sight, too, the conflict of jurisdictions threatened a serious collision between church and state. The bailiff of Valence's manor of Inkberrow, Worcestershire, having with the assistance of others arrested a robber, the bishop demanded the surrender of the prisoner on the ground that he had been taken within the liberty of the bishop's Hundred of Oswaldslow. Upon refusal by the bailiff, the bishop with that surprising levity which is peculiarly medieval, attempted to enforce his temporal claims by the spiritual thunders of the church, and excommunicated the captors. The excommunication was issued on 29th July, following hard upon an inquisition held by the bishop at Hartlebury on the previous day. The crown at once resented the vindication of temporal jurisdiction by spiritual censures as an invasion of its prerogative. In little more than a fortnight a royal prohibition was served upon the bishop, while Valence's bailiff appealed to the Court of Arches for relief from the excommunication. The Court of Arches, before which the case came in November, appears to have regarded the dispute as one affecting temporal jurisdiction, which it was, and annulled the excommunication. Upon the point of jurisdiction the bishop thought it wise to tender his submission. The council, in the proceedings of which the king is stated to have taken part, heard the case in the following January. It emphasized as the bishop's capital offence his invocation of the spiritual power. For this affront to the crown the king's attorney claimed a penalty of ten thousand marks, besides compensation to William of Valence and his bailiff. Final judgment on these minor points was reserved till the following Easter.

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[2] *State Trials of Edward I* (1906), p. xxxviii.

[3] Printed Wocton, an obvious misreading easily intelligible to the palæographer.

[4] The venue was in the neighbouring county of Hants. *State Trials*, App. ii, pp. 198, 199.

CITIZENS OF LONDON *v.* BISHOP OF BATH

1295 The petitions of the citizens of London complaining of the acts of William de la Marche, the late treasurer of the exchequer, form a contribution to the history of the city at a critical period. The events here described relate to the years between 1285 and 1298, when after a suspension of its charters the city was said to be in the king's hand. Just as had happened on similar occasions before, most notably between 1265 and 1270, and again in 1273, a warden (*custos*) was appointed by the king in place of the mayor, and, it might be, king's bailiffs were set up instead of the local sheriffs. Under these conditions the fiscal administration, and therefore to a considerable extent the practical control of the city, devolved upon the king's treasurer[1] and the officials of the exchequer who are now attacked. In a way the petitions remind us of the state trials held in 1290,[2] when the people were asked to make any complaints that they might have against the conduct of the king's officers. In the trials of that day, involving many judges and other ministers, only one officer of the exchequer was accused. The present petitions on the contrary bear wholly upon the conduct of the treasurer and the administration of the exchequer. Although we are not told, it is probable that on this occasion the citizens were invited to make their complaints, and that an intimation was given that their petitions would be heard. With reference to the trials just mentioned a proclamation to this effect had been issued in 1289,[3] and again in 1307 Edward II encouraged the people to make their complaints against the deposed treasurer Walter of Langton,[4] directing that their petitions should be put into writing and delivered to a clerk especially deputed to receive them. Some such method, we can see, was followed in the compilation of the present record, which consists of as many as fourteen separate bills that have been brought together and transcribed by one or two clerks in a single roll. The work was not quite finished, for according to the clerks' note at the end one of the bills is lacking, and elsewhere in the parchment spaces have been left unfilled. There is still another petition of complaint against the ex-treasurer, which found its way into the Rolls of Parliament.[5] The engrossment of the petitions leaves no doubt that there was an intention of giving them formal consideration, but any hopes that may have been raised of a new series of state trials were doomed to disappointment. Whether because more urgent business took up the attention of the council, or because a reform in the methods of the exchequer was not desired, the petitions of the citizens were never given an answer. We should like to have had judgments upon the charges, but even as they stand they are not lacking in value for voicing the prevailing opinion of the Londoners, especially when the abuses mentioned are corroborated from other sources.

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[1] It was John of Kirkby the former treasurer who was said to have taken the mayoralty and the liberties of the city into the king's hand. *Ann. London.* (Rolls Ser.), 94.

[2] *State Trials of Edward I* (Roy. Hist. Soc., Camden Ser.).

As to the complaints in particular, the first charge of the citizens is that they had been in certain cases impleaded outside the walls of the city, contrary to one of their best established liberties. This was a right that even under a suspension of the charters they were still recognized as holding. By the letters of his appointment the warden had been commanded "to guard and govern the citizens according to their customs and liberties." This duty, as the citizens themselves acknowledge, the warden performed in challenging the act of the treasurer who was alleged to have impleaded Osborn le Leuer for his free tenement outside the city. There are many evidences that the government took particular care not to offend the citizens on this point. Now the allegation of Osborn le Leuer that he was thus impleaded is open to doubt in the light of a record of this same plea in the Letter-books.[6] It there appears that in 1292 Osborn was the plaintiff against William de la Marche as Dean of St. Martin's, who as an officer of the exchequer claimed that he could not be impleaded outside of the exchequer. And so by the king's command the case was given to the treasurer and barons of the exchequer, wherein, it is true, William de la Marche was in the anomalous position of being both judge and party. Thus we are confirmed in the suspicion that some of the charges were overdrawn and recklessly made.

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[3] *Cal. Close Rolls*, 17 Ed. I, 55.

[4] H. T. Riley, *Memorials of London* (1868), i, 63.

[5] Petition of Geoffrey Say, *Rot. Parl.* i, 467.

[6] *Cal. Letter-books* (Ed. Sharpe), C 9, B 74.

It was not the king's intention to supersede the local courts, but to permit them to continue under their customary form. The mayor's court appears to have been taken over by the warden,[7] the court of Husting was assembled in the Gildhall on Monday and Tuesday of each week,[8] and the court of the sheriffs[9] was wont to be held under the presidency of one sheriff in alternation with the other. The particular complaint against the existing régime is that the business of these courts had been largely drawn away from them. This happened in two ways. First there were the judicial commissions, which it was the king's plan to extend into the city without hindrance. It was over this issue indeed that the liberties of the city had been suspended in the first place. After a series of riots and flagrant cases of gaol breaking in 1285, Edward sent forth a commission to hold inquisitions in the Tower, and when the mayor and aldermen disputed the right of the commission to hale the citizens before them except after forty days' warning, the king seized upon the pretext for taking over the mayoralty.[10] Henceforth commissions of oyer and terminer, gaol delivery and the like were issued with frequency. The king did not fail to recognize the ability of the Londoners in appointing them to his commissions, and endeavoured to make these serve the interests of the city. A commission in 1290 was empowered to hear all pleas which the people might desire to bring against the king's bailiffs and ministers.[11] But what the citizens resented the most, according to their fifth petition (p. 10), was the drawing of pleas of all kinds into the exchequer. To obviate the necessity of impleading the citizens beyond the walls, the exchequer was removed in 1289 from Westminster to the Husting,[12] where it was held more or less of the time that the city was in hand. Now the tendency of the exchequer to expand its function in the direction of hearing pleas had long been noticed and attempts had been made to check it. The Statute of Rhuddlan, 12 Edw. I, declared that pleas should be held in the exchequer only in such matters as especially concern the king and the officers of the exchequer. In spite of this and other similar acts the restrictions were either ignored or evaded by legal fictions. In some of the examples before us, we can see the pretexts upon which these actions were taken. John Bone (p. 17) had made a recognizance on record in the exchequer of his debt to Adam of Stratton. After Stratton had been convicted of crime and his property confiscated, all debts due to him fell to the crown, and Bone was called before the treasurer to answer for the debt. Again Ralph Sansauver (p. 16) was bound by certain covenants of military service to William of Brewes; presumably Brewes was under obligations of military service to the king, so that the exchequer was induced to enforce a debt due to a debtor of the king. In the case of Roger Paw (p. 13) it is alleged that a merchant whose wool had been confiscated by the king straightway sued his agents for the money spent in purchasing it. A reason for the distrust of the exchequer in this regard is expressed in the fifth petition, that the actions " are commenced by bill and not by writ of the king." A court that proceeded only by writ was under the control of the common law, but a court that could proceed upon a suitor's petition was under no such restraint. This was the kind of authority that was granted to the itinerant justices, not in all cases but at least in cases of very poor people.[13] It was an authority later grasped by the chancellor, and was always the distinctive power of the king's council. But no such position was conceded to belong to the exchequer. There was a prolonged struggle before the exchequer was forced to release its hold upon pleas belonging to the common law.[14] In the Ordinances 5 Ed. II, c. 25, it was declared that pleas in the exchequer should be limited to those affecting the king and the officers of the exchequer, their attendants, and servants, and any parties wrongly impleaded might have recovery in parliament.

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[7] There is the following mention of the warden's court in 21 Ed. I. Allocatur custodi London' cognitio placiti juxta cartas regis Henrici patris regis. *Abb. Plac.* 289.

[8] *Cal. Wills in the Court of Husting* (ed. Sharpe, 1889), Introd.

[9] Riley, *Memorials*, i, 27, 29.

[10] *Ann. London.* 93.

[11] *Cal. Pat. Rolls*, pp. 397, etc.

[12] By an ordinance cited in Madox, *Hist. of Exch.* (2nd ed.), ii, 9. It was not here all the time, for it is mentioned as sitting at Westminster in 1292. *Cal. Letter-books*, C 9.

The reason for suitors desiring to collect their debts through processes of the exchequer is seen especially in its free use of the power of distraint. No complaint of the time is more often repeated than that against excessive distraints, by which for a petty debt to the king or another a party might in a moment be deprived of all or much of his property. Thus according to the allegation of John of Gisors (p. 9), because he was unwilling to submit to the jurisdiction of the exchequer over a free tenement in the city, he was by this means forced to make peace with his opponent. The citizens of London argued that since it was one of their liberties to deraign themselves in pleas of the crown, so they should be permitted to clear themselves of distraints issuing from the exchequer. To check the abuse there were many acts of legislation like the following: On producing a tally of payment, distress shall cease; distress shall be reasonable after the value of the debt, not outrageous; distress for the king's debts shall not be made up of beasts of the plow, so long as one may find other, and over-great distress shall not be taken; if a debtor can find surety until a day before the time limited, the distress shall be released in the meantime.[15]

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[13] Bolland, *Bills in Eyre* (Selden Soc., 1914).

[14] A significant extract from the *Plea Roll*, 33 Ed. I, is given in *The King's Council*, p. 219.

Other charges, that touch upon the recognized abuses of the exchequer, need merely be mentioned. A man is held to account for what he is not legally an accountant (Pier of Tadcaster and Pier Jacob, p. 10); there is failure to give acquittance or allowance for actual expenditures (Henry le Bole, p. 11); the treasurer and barons are sometimes too busy to receive accounts (Pier Jacob, p. 11); the property of wards was exploited and excessive relief demanded (John of Erley, p. 14); imprisonment for debt might go on indefinitely, sometimes for personal vengeance (Gerard Mauhan, p. 15); purveyance of horses, armour, beer and other articles without compensation was only a form of confiscation (William of Hereford, p. 16, Richard the Brewer, p. 17, etc.). In all these charges against William de la Marche it is noticeable that in only one case is he accused of taking things for his own use (William Savage, p. 15).

As to the revenues, it was understood that the suspension of civic liberties was an opportunity for special fines and taxes levied directly upon the people. " It is an evil thing," a chronicler exclaims, " to fall into the hands of the king. So beware!"[16] In the king's desperate straits for money, the merits of the system depended upon his success in thus enlarging his revenues. He met with practical difficulties however in collecting the sums demanded. On his return from Gascony in 1289, there was a present of £1000 which the citizens offered by way of curtesy. The money was to be levied by poll, but many of the inhabitants were reported to be so poor that they could only give pledges for future payment, and these pledges were afterwards sold for what they would fetch.[17] When Edward came to London again in 1290, the sum had shrunk to 1000 marks. The ingenuity of the treasurer brought forth a claim to £1000 of a debt in arrear from the reign of King John. The fine of 20,000 marks here mentioned held over from the reign of Henry III [18] and was being paid in driblets from time to time. In 1291 the common council proposed to borrow 20 s. from the wealthy in each ward, to present to the king and council, with a view to the recovery of the city's franchises and in respect of the account of the 20,000 marks. In 1292 the sum of £383 8 s. 5 d. was allowed.[19] At this rate a large part of the sum remained unsatisfied in 1302, when the king commuted it for £1000.[20] In 1294 money must be had for the war with France, and £2000 found in St. Paul's Church was appropriated.[21] But the ferm of £400 a year, the citizens tell us, was raised with difficulty because the sources from which it was derived had diminished. Customs on

[15] *Stat. West.* 1st, c. 32; *Stat. Marlberg.* c. 1; *Artic. super Cart.*, 28 Ed. I, c. 12; *Statutes of the Realm*, i, 97; *Rot. Parl.* i, 35, 79; Britton (Ed. F. M. Nichols), i, 89.

[16] *Ann. London.* p. 70.

[17] *Chron. Ed. I and Ed. II* (Rolls Ser.), i, 98.

[18] *Ann. London.* p. 70.

[19] *Cal. Letter-books*, C 4, 7, etc.

[20] *Cal. Pat. Rolls*, 30 Ed. I, p. 74.

[21] *Ann. Dunst.* (Rolls Ser.), iii, 390.

merchandise had fallen off because of the war with France. No regular incomes were offered as a substitute, except fines and donations. The king's government of the city had its merits, but finance was its weakness. The aldermen and merchants, upon whom the success of the system depended, were against it, and, as their joint petition suggests (p. 10), were assiduous in demanding the restoration of their franchised estate.

The first sign of failure came with the dismissal of the treasurer. Already in 1294 there was an expression of royal displeasure in a reprimand administered to the treasurer for not obeying an order of the king to permit a widow to have the goods and chattels of her husband for forty days, as she should by law and custom.[22] It is commonly said that his fall was occasioned by the extreme measures taken in collecting the subsidies of 1294. Archbishop Winchelsea complained of his sacrilege in seizing treasure of the churches, and the king answered that he had not ordered it but the treasurer had done it of his own motion.[23] This may have been the immediate occasion,[24] but the disaffection of the citizens of London bringing about the failure of one of the king's best calculated plans must be reckoned as one of the contributory causes. The minister paid a large sum of money to win back the royal favour, but though he was permitted to hold his bishopric and to attend parliament as a lord spiritual, he was never again entrusted with public office or asked to serve on a commission. The dearest wish of the Londoners that the king would restore to them their franchises was not immediately granted. For three years more Edward continued his experiment of holding the city under a warden but with the restlessness of the citizens and new manifestations of disaffection on the part of the aldermen, the experiment was at length given up. In 1298 in return for a gift of 2000 marks the king restored the mayoralty and all liberties of the city as freely and entirely as they had been on the day of his taking them away.[25]

THE BISHOP OF SABINA *v.* BEDEWYNDE

1307 The suit of the *Bishop of Sabina v. Bedewynde*,[1] testing the claims of a papal provisor, throws light on a subject that has not been sufficiently investigated. There are the helpful works of Haller,[2] Baier,[3] and Mollat,[4] but these are concerned with the problem of provisions as found on the Continent rather than in England. Stubbs has a section which deals almost entirely with bishoprics,[5] whereas the principal part of the problem lies with a multitude of minor places in the church. How many of these were involved at any time, we have little statistical information. Can we rightly estimate the number from the demand of Pope Gregory IX, as reported by Matthew of Paris, that he should have the disposal of as many as 300 benefices in England ?[6] Are we to take at its face value the complaint of the barons made at the first council of Lyons, that Italians were holding benefices in the country to the value of 60,000 marks a year?[7] Or is the promise of Innocent IV that he would confer no more than twelve benefices in England,[8] a better guide to the practical extent of the problem ? But it is not the extent of papal provisions so much as the nature of the rights in dispute, bringing about a conflict of church and state, that is now suggested for consideration.

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[22] *Cal. Cl. Rolls*, 22 Ed. I, p. 368.

[23] Rishanger (Rolls Ser.), 473.

[24] The date of his removal is not known, but it must have been prior to these petitions in August. His successor was appointed 28 Sept. *Cal. Pat.*, 23 Ed. I, p. 149.

[25] Birch, *Hist. Charters*, p. 43.

[1] In the treatment of this subject I have been given much assistance by Professor W. E. Lunt of Haverford College.

[2] J. Haller, *Papsttum und Kirchenreform* (1903).

[3] H. Baier, *Päpstliche Provisionen bis zum Jahre 1304* (1911).

[4] G. Mollat, *Les Papes d'Avignon* (1912).

Out of the mass of correspondence that passed between England and Rome during the thirteenth century, it is not always easy to discover the grounds upon which the papacy based its claims in the matter of provisions. For in most cases the pope advanced no positive claim to a benefice but preferably requested it for his own nominee, urging his need of support and appealing to a sense of duty, sometimes threatening those who opposed him. That is, the papal rights were extended by moral and political pressure more than by legal right. But out of the manifold contentions, there emerge the following guiding principles.

1. The power of the pope, and therefore the peculiar problem of provisions, pertained only to benefices in the gift of the clergy. Gregory IX acknowledged this in a letter in 1239 to the English barons, whereby he confirmed the rights of lay patrons to their benefices, at the same time revoking a provision that he had made affecting a lay patron.[9] It is not clear whether this limitation was a voluntary act on the part of the pope, and therefore of canonical validity, or whether it was a concession of the moment to meet the demands of the barons. At all events, the restriction was recognized, if not by canon law, certainly in the courts of common law and in general was practically operative.[10] Even within these limits, as the cases before us will show, the interests of lay patrons were seriously affected, so that it was the barons more than the clergy who opposed the papal demands.

2. The death of an incumbent in the *curia* at Rome, possibly of a pilgrim on the way to Rome, left his benefice to be filled by the pope and the pope

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[5] *Const. Hist.* iii, § 384.

[6] Matthew Paris, *Chron. mai.* (Rolls Ser.), iv, 32.

[7] Ibid. iv, 441–44.

[8] Ibid. 518; Burton, iii, 169.

[9] Intentionis nostrae non fuerit nec existat, ut beneficia in regno Angliae constituta, quae ad praesentationem pertinent saecularium patronorum, auctoritate nostra conferantur. Matthew Paris (Rolls Ser.), iii, 613; Potthast, *Regesta*, § 10835.

[10] A parson, it is here pointed out, might be in one of three ways, presentation, collation or provision; in this case it was "not by provision, for they are lay patrons." *Year Books* (Selden Soc.) 4–5 Ed. II, § 57.

alone. This was affirmed by a decretal in 1265, which sanctioned it as an ancient custom of the church.[11] The claim was extended by Boniface VIII to include benefices voided at the apostolic see, whether by death or any other cause.[12] It was the claim most frequently asserted by Boniface VIII, who applied it in thirty-nine cases, including that to the treasurership of York, which will presently be argued.

3. The incumbency of a curial, that is, an officer of the papal court, was also put forward as ground for a reservation and the provision of the next incumbent.[13] This claim was energetically resisted in England, to the effect that on more than one occasion promise was given that an Italian should not succeed an Italian to any benefice. But since a curial was likely to die at Rome, it was easy to provide one Italian after another to the same benefice indefinitely, basing the right to do so on other ground.

4. The promotion of a clerk often left the voided benefice to be provided to by the pope. This was based on the argument that in the translation of bishops, a practice of recent growth, only papal authority could loose the tie that bound one to the church of his consecration.[14] It was then the duty and privilege of the pope not to leave the divorced church unconsoled. Likewise in regard to lesser officers, if the pope was concerned in their promotion, there was ground for a provision to the vacated benefice.[15]

5. Also the resignation of a clerk, giving up his benefice spontaneously into the hands of the pope, was the occasion of a provision for filling it. It is obvious how the right of a lay patron might be thus superseded. Moreover a lay patron might in the same manner cede his right of advowson over to the pope.[16]

It will readily be seen that, in spite of all theories to the contrary, the rights of the king, the greatest of lay patrons, were sure to be affected by the policy just outlined. For during the time of a vacancy of a bishopric or any church of his advowson, whenever in fact the temporalities of a church were taken in hand, the profits of such benefices were enjoyed by the king. This right, known in France as the *regale*, was designated in England as part of "the dignity of the crown and the royal inheritance." A feature of this prerogative which has never been fully explained, is how the king in England, different from princes of other countries, came to assume the collations pertaining to the benefices which were for the moment in his hand. For the collation was not necessarily part of the temporalities;

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[11] Beneficia vacantia in curia alius quam Papa conferre non potest; quod si fecerit, irrata est collatio. Sexto Decr. iii, tit. 4, c. 2 in Friedburg, *Corpus*, ii, 1021.

[12] Cum beneficia ecclesiastica, quae apud sedem apostolicam vacare noscuntur, personis conferri debent idoneis, illa provisioni ejusdem reservat. Potthast, *Regesta*, § 24089; Boehmer, *Corpus*, ii, 1150; Richter, *Corpus*, ii, 1170.

[13] Baier, *op. cit.* 138; Potthast, § 4758.

[14] Stubbs (5th ed.), iii, 316.

[15] Matthew Paris, iv, 287.

[16] e. g. the Earl of Surrey mentioned below, n. 54.

at least it might have been claimed as a spiritual function and then it would have reverted to a clerical authority. Madox,[17] who has assembled much material on the rights of the king over vacant bishoprics, has said nothing on this point. Yet the power was well established in the thirteenth century. In 1234 a case was heard that tested the right of the crown in a question of this kind.[18] The bishop-elect of Hereford, having been duly confirmed by the archbishop of Canterbury, on the same day conferred a prebend pertaining to the bishopric on a candidate of his own choice. But the king, having learned that the former holder had died while the temporalities of the bishopric were still in hand, bestowed the prebend upon another candidate. The bishop argued in the king's court that he had found the place vacant, and so he could and ought to fill it. But it was the judgment of the court, concurred in by the archbishop of Canterbury and other bishops in attendance, that the king's donation was undoubtedly valid, although they could point to no custom, and no such case had been heard of before.[19] The case is important for setting an exact precedent for the claim afterwards made in the case of the *Bishop of Sabina v. Bedewynde,* although the pope was not then involved and other complications of the later case were lacking.

In the reign of Edward I the question of provisors became a pressing one, but there was lacking at first any firm policy in dealing with it. Between the alternatives of accepting or rejecting the papal candidates the king seemed to vacillate, according as he was moved by desire of the friendship of the pope, or constrained by his barons to oppose him. In 1290 with the support of his barons Edward sent a letter to the pope complaining of abuses in the matter of "collations and executions" in the churches of York and Lincoln tending to the disinheritance of the crown.[20] But the answer of Nicholas IV, admonishing him not to invade the liberties and rights of the church,[21] was received without protest. Again in 1295 Edward writes to Boniface VIII, who has asked for two prebends in the church of York, that he is desirous out of reverence for the pope of carrying the matter into effect, so far as may be done without disinheritance of the crown.[22] At the same time the king is seeking a reciprocal favour for his relative Theobald of Bar bishop-elect of Metz.[23] But the king was capable of asserting the rights of the crown with greater vigour. During the vacancy of the see of York, occasioned by the death of Archbishop Romein in 1296, Edward conferred the prebend of Masham upon his clerk John of Drockensford, who was inducted and held possession for two years. Then on grounds not clearly explained, John de Colonna claimed the prebend as a papal reservation and provision, showing a mandate to the Archbishop of Tours to induct him.[24] The king wrote to the archbishop of Tours inhibiting him from attempting anything of the kind, and by further letters to Rome asked for the revocation of the provision in question. "Even if the king should submit," he said at last, "or permit it to pass, the magnates of his realm, who are bound by homage and fealty to defend his dignity and crown, would not allow his right thus to perish."[25] The provision is not heard of again. A similar issue, arising out of the claims of rival candidates to the prebend of Stillington in the diocese of York, came to a judicial hearing in 1304.[26] Different from the case of 1234, the right of the pope was at this time involved. By reason of the vacancy of the see after the death of Archbishop Newerk in 1299, the king granted the prebend of Stillington and the chapel of St. Mary's to John Bush a clerk of the royal household.[27] Almost simultaneously on the ground of a voidance of the prebend created at the court of Rome, Pope Boniface VIII provided it to his nephew Francis Gaetano, who apparently held possession during the four succeeding years.[28] After a vain attempt to secure the pope's favour toward John Bush, Edward began the vindication of his own right by a command to Archbishop Corbridge to admit and induct the clerk into the aforesaid benefices. The archbishop answered that he could not and ought not to do this against the act of the pope, whereupon the king called him by writ *quare non admisit* to answer for contempt before his justices. Since there was no one who dared to act as his attorney, the archbishop answered in person, repeating what he had said before that the act was an act of the pope. The court pronounced him undefended and seized the temporalities of the see into the king's hand. Sad and worn the archbishop departed and died soon after. The same process was then begun against the dean and chapter, who in fear of the king's wrath admitted the clerk to the chapel but held the prebend in suspense. By dint of letters inhibiting Francis Gaetano from attempting anything to the injury of the crown, and by prohibiting John Bush from answering a citation from Rome,[29] the clerk was maintained in possession of the prebend of Stillington until 1310, and of the chapel until 1316. In this case, although the rights of the pope were in question, the contention was carried on not by the pope but by the archbishop. Moreover it was tried not before the council but before the justices by a process of common law.

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[17] *Hist. of Exch.* ch. x, § 3.

[18] *Red Book of Exch.* (Rolls Ser.), ii, 765.

[19] There are many examples of the use of this power subsequently, e. g., in 1256 the king granted to John Mansel the treasurership of the church of York, then in hand because of the voidance of the see (*Cal. Pat. Rolls,* 458), and to Amaury de Montfort in 1265 for the same reason (ibid. 404).

[20] *Fœdera,* R. i, 740; O. ii, 493.

[21] Ibid. O. ii, 494; further correspondence, 526, 530.

[22] *Cal. Cl. Rolls,* 23 Ed. I, p. 450.

[23] Ibid., 25 Ed. I, p. 97.

The next case, the *Bishop of Sabina v. Bedewynde*, was initiated in the Parliament of Carlisle, which met in January, 1307. Here the strongest sentiments against the papal policy heard for a generation were boldly expressed. The principal grievance was annates, but there was also complaint of provisions. Fearful of the tendency to encroach upon their rights of advowson, laymen joined with the clergy in a protest, that " by the unbridled multitude of provisions the collation of benefices pertaining of right to the ordinaries is taken away from them, and at length the poor nobles and learned men are excluded from ecclesiastical promotion." [30] The ensuing Statute of Carlisle, although it failed to state any rule in regard to provisors, laid down a principle that has been since reiterated, that the churches of England had been founded by the king and his progenitors, and by the nobles and their ancestors, who had given their lands for the support of religion, and to them the patronage of such churches naturally belonged.[31] For a specific statement on provisions we look not to any act of legislation but to the case before us concerning the treasurership of York.

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[24] Ibid., 26 Ed. I, p. 223, also p. 292.

[25] Ibid., 27 Ed. I, p. 309.

[26] Given at length in W. Hemingburgh (*Eng. Hist. Soc.*), ii, 233–34; also *Abb. Plac.* 251.

[27] *Cal. Pat. Rolls*, p. 512.

[28] Le Neve, *Fasti*, iii, 212.

[29] *Cal. Cl. Rolls*, 34 Ed. I, p. 472; *Cal. Pat.*, 32 Ed. I, p. 227; *Cal. Cl. Rolls*, 4 Ed. II, p. 340; *Cal. Pap. Letters*, ii, 3.

Now the church of St. Peter's, York, more than any other church in England had been thrown into the hands of papal provisors. Since 1296, when the dean Henry of Newerk was promoted to be archbishop, the deanery was disputed between Cardinal Francis Gaetano a papal provisor and William Hamilton the choice of the chapter.[32] But on this question the pope in the end gave way. It was different with the treasurership, which had been held since 1287 by John of Colonna until he was removed by Boniface VIII in 1296. The voidance of the treasurership happened during the vacancy of the see, but the king did not immediately claim his right to the collation, and the pope provided it to Theobald of Bar, a relative of the king wholly welcome to him. It was not until after Theobald had resigned in 1303, and the pope had named another candidate, Francis Gaetano, that the validity of these appointments was brought into question. On 1 November, 1306, the king formally appointed Walter Bedewynde a clerk of the exchequer to be treasurer of York, and commanded the archbishop and chapter to admit him to the office.[33] When the archbishop failed to obey, he was threatened with being called to answer at the Parliament of Carlisle.[34] It is to be noticed in this connection that the king's right in the matter was asserted before and not after the meeting of parliament.

The king first sent the matter to be heard by the council at Carlisle.[35] Some discussion of it then took place, as certain letters dated 10 March give us to understand,[36] but the full hearing did not take place till afterwards. In accordance with the king's writ of 26 April, as our record shows, the issue was fully stated and argued at length before the council sitting at London. The special plea of the pope's legate is that the king has lost any right to the benefice that he might have had by not exercising it within the time set by canonical law. This was the law of "lapse," a canon established by the Third Council of the Lateran in 1179 to the effect that in cases of vacancy appointments shall not be held indefinitely in suspense; if the regular patron does not act within six months, the bishop of the diocese may name a candidate; if he does not appoint, the chapter may; and if all others fail, then the metropolitan may dispose of the place.[37] Although the pope is not mentioned in the canon, it probably worked in his favour. Now Theobald had held the treasurership for six years, and his successor for three years more, before any right of the crown was asserted. The plea was therefore an exception of plenarty, that is, the place was filled and the possessor should not be disturbed.[38] In the king's behalf it was argued to the contrary that, however it might be with other patrons, against the rights of the crown "there is no lapse nor ought there to be." Upon this ground the case was decided, but as a statement of law it was an extreme claim for the rights of the crown, that was not maintained without modification later.

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[30] *Rot. Parl.* i, 207, 220.

[31] Ibid. 219; *Statutes of the Realm*, i, 150.

[32] Le Neve, iii, 122.

[33] *Cal. Pat. Rolls*, p. 467.

[34] *Cal. Cl. Rolls*, 34 Ed. I, p. 477.

[35] There is a writ to this effect dated 18 Feb. *Rot. Parl.* i, 218.

[36] *Cal. Pat. Rolls*, p. 511.

The judgment of the council, which was duly enrolled and set forth in letters under the great seal, was far from being the end of the controversy over the treasurership of York, much less of the general question of provisions. In two or three passages of the record there are allusions to the responsibility resting upon Bedewynde of maintaining not only his own right but the rights of the crown — this he is admonished he should do "with all his might." The sequel shows that he had need of great patience and energy in contending with the ecclesiastical processes that were immediately begun against him. On 5 September, the pope required the archbishop to cite him for having despoiled Francis Gaetano of the treasurership.[39] Edward II endeavored to defend his clerk by requesting Pope Clement V not to carry the matter further; were the king to connive at at such proceedings, he wrote, "his nobles would not endure it." [40] Still the papal processes were not discontinued. At the same time Bedewynde as a pluralist had need of a papal dispensation in order to retain the benefices that he was holding uncanonically.[41] At one moment he seemed on the point of yielding, when the king ordered the warden of the Cinque Ports to arrest Walter Bedewynde or John Bush in case either of them should attempt to cross the sea to answer in any court outside the kingdom.[42] Thus for twenty years Bedewynde was defended by letters of protection and inhibition, but the king of England could not prevent the case being taken up in the papal court. As many as three hearings took place there, before Bedewynde died in 1328,[43] *pendente lite*.

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[37] Hardouin, *Acta Conciliorum*, vi, 1677.

[38] The same plea was used in a case 10 Ed. II, touching the bishop of Norwich. *Abb. Plac.* 325; see also *Year Book*, 19 Ed. III, 58-64.

[39] *Cal. Pap. Letters*, ii, 28.

[40] *Fœdera*, R. ii, 20; O. 38.

[41] *Cal. Pap. Letters*, ii, 41, 62.

[42] *Cal. Cl. Rolls*, 4 Ed. II, p. 340.

[43] The last reference to him as living is dated 12 Feb. 1328. *Cal. Cl. Rolls*, p. 361.

Even the death of Bedewynde was not the end of the controversy over the treasurership. Apparently the late treasurer gave up his office into the hand of the king, for in 1326 Edward II granted it to his clerk Robert Baldok[44] by reason of the voidance of the archbishopric in the time of Edward I.[45] Edward III appointed William de la Mare in 1329,[46] while the pope appointed Cardinal Mortemart as a successor of Francis Gaetano.[47] The aspect of the question was then entirely changed by the king's granting the cardinal permission to prosecute his claim, notwithstanding any prohibition heretofore issued.[48] The king's clerk lost his case in the papal court and the church of York was placed under an interdict to enforce the decree.[49] The king seemed to have abandoned his claim entirely, when in 1349 he undertook once more to grant the office which he claimed to have recovered in the court of common pleas.[50] The pope however insisted on a provision, but was willing to name the king's candidate, John Winwick.[51] The king accepted the provisor on this basis. Thus a political advantage was gained by a legal defeat. This brings us to a later aspect of the problem, in which the king often secured the appointment of his own candidates by means of papal provisions.

Under the temporizing policy of Edward II and Edward III papal provisions were permitted to increase, but it is not true to say that "up to the year 1350 the right of provision was exercised without check."[52] As a method of saving the royal rights, according to a form begun by Edward I, the papal candidates were required to renounce anything in the pope's bulls or letters prejudicial to the crown. There was in fact a series of conflicts and test of claims in which it is true the king did not always win. To cite a case of this sort, in 1327 King Edward III presented Geoffrey Cotes to the church of Fishlake in the diocese of York,[53] a collation of the priory of Lewes then in hand. This appointment was met by a provision of the same church to a curial, Peter Vaurelli, on the ground that the earl of Surrey, patron of Lewes, had ceded his right to the pope.[54] This time the king was persuaded to relinquish the defence of his candidate, by permitting Peter to prosecute his claim in ecclesiastical courts.[55] In 1328 Geoffrey made complaint in parliament that while he was in peaceful possession of the church, there came Peter Vaurelli with bulls from Avignon and ousted him.[56] He seems to have secured a judgment of the king's court but he must needs petition again, because he could not gain possession.[57] He alleges that the ecclesiastical proceedings had been taken before the bishop of Lincoln, then the king's chancellor, who, after giving judgment unfavourably to him in the ecclesiastical court, had turned the king's writs against him. The chancellor, he said, even granted to the provisor a writ of *supersedeas* with the clause "notwithstanding any judgment in the king's court or prohibitions," an entirely illegal instrument. After further proceedings in the chancery the petitioner said that he had been compelled under duress to resign the church and suffer the provisor to have it. Geoffrey was told that he might sue before the council, which would review the record, process, and judgment. But the king's presentee never recovered the church of Fishlake; on the contrary, at the request of the king himself he was induced to give it up, and was granted instead other churches with which he was apparently satisfied.[58]

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[44] *Cal. Pat.*, 19 Ed. II, 279. Bedewynde however was still called treasurer of York to the time of his death.

[45] Another instance in which Edward III claimed an appointment by virtue of a vacancy so long ago as the time of his grandfather is given in *Year Books*, 11-12 Ed. III (Rolls Ser.), 654.

[46] There were the intervening appointments of John Brabazon in 1327 and Walter Yarwell in 1329.

[47] *Cal. Pap. Letters*, ii, 316, 344.

[48] *Cal. Pat.*, 5 Ed. III, p. 186.

[49] *Fœdera*, R. ii, 849; O. iv, 541.

[50] *Cal. Pat.*, 23 Ed. III, p. 355; 25 Ed. III, pp. 134, 179.

[51] *Cal. Pap. Letters*, iii, 420.

[52] Stubbs (5th ed.) iii, 324.

[53] *Cal. Pat.*, 1 Ed. III, 123; 2 Ed. III, 228.

[54] *Cal. Pap. Letters*, ii, 264, 317.

[55] *Cal. Pat.*, 2 Ed. III, p. 315.

[56] *Rot. Parl.* ii, 20.

As the reign of Edward III advances, there is evidence of more vigour in the proceedings, both civil and criminal, against provisors. The rolls of the chancery abound in commissions to arrest provisors and all persons aiding them, who treat with contempt the king's appointments, and to bring them before the chancellor, the council, or the king's bench. The charges are of contempt toward the authority of the crown, and of making appeals to the Roman *curia* without license. It is not generally known that the latter was a valid charge at common law and was received by the king's courts long before the Statute of Praemunire gave it sanction. At the same time these prosecutions often failed in their effect because the king suspended the proceedings or sanctioned the ecclesiastical processes. On the other hand, opposed to the material power of the state, there was not only the great moral strength of the church; often there was physical power of resistance. For example, in 1340 the king, having presented to the church of Foston, ordered the arrest of all persons proceeding in derogation of his right.[59] But a provisor had entered the church by force, wasting its tithes and profits and so threatening the servants of the king's clerk, that they dared not do what was incumbent upon them. Again in 1345, one of the king's commissioners reported that, after he had effected the arrest of a papal notary, a band of men fell upon him, assaulted his servants and rescued the prisoner.[60] In another instance a provisor, having held possession of a church by force and arms against the king's presentee, was pardoned and delivered from prison on security for his good behavior, but he only went forth with the aid of his supporters to intrude into the church again, "whereat the king was not without reason disturbed."[61] In other words, provisors were gaining the support of the residents and armed men of the neighborhoods, and aggravating the disorders of the country.

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[57] Ibid. 45.

[58] *Cal. Pat.*, 4 Ed. III, pp. 491, 520, 543.

[59] Ibid., 14 Ed. III, pp. 100, 102.

[60] Ibid.. 19 Ed. III, p. 579.

[61] Ibid., p. 583.

Sooner or later such a problem at law was sure to pass from petitions and suits to acts of legislation. In 1340 a concession was made to ecclesiastical interests, when in regard to "exception of plenarty," brought forward in Bedewynde's case, it was agreed that the king would make no collation or presentment, whether to benefices in his own right or in the right of another, after three years from the time of voidance.[62] It was the expressed desire of the clergy to restrict the time still further to the six months set by canonical law. Although the king was inclined to yield his claim in any given case, after the benefice had been held for a year or more, the statutory restriction was resented as prejudicial to the king and his heirs. It was therefore repealed, under the promise that the king's right in such cases should be well examined.[63] The stronger current of legislative acts ran toward the limitation of papal provisions. In 1343 the king frankly warned the pope that the nobles and commons assembled in parliament would no longer endure the injuries caused by the immense number of provisors invading the kingdom.[64] In 1344 the commons asked for a statute to this effect. Unwilling as yet to concede a statute, the king went so far as to issue a proclamation, which follows in the main the lines already laid down by the courts and traces in advance some of the terms of the later statute.[65] Reciting the preamble of the Statute of Carlisle in regard to the foundation of churches, it adds the significant clause: "and of these (ecclesiastical) possessions the king and magnates had custody during voidance." Furthermore the proclamation declared the bringing in of bulls, letters, processes, etc., prejudicial to the king and the people to be a criminal offense punishable by forfeiture. Thus the way was prepared for the long desired Statute of Provisors in 1351, which extended the terms of the foregoing proclamation. Repeating the preamble of the Statute of Carlisle, it declared that this holdeth always and has never been repealed. As to collation of benefices its main stress was laid upon the claims that had been set forth many years before in Bedewynde's case, that in spite of reservations or provisions by the pope, at the time of voidance, the king as well as other lords shall enjoy the collations of benefices which be of their advowry. Against the interference of provisors criminal processes were strengthened, to the effect that all persons concerned in the illegal practices were to be attached and held until further notice, if convicted they were to be imprisoned without bail, and in extreme cases outlawed. The closely related Statute of Praemunire in 1353 added the statement that all subjects of the king suing in a foreign court matters cognizable in the king's court, or questioning elsewhere the judgments of the king's court, shall be brought before the king and council, or in his chancery, or before his justices to answer. How extensively the council was concerned with these questions we have seen from the foregoing cases.

[62] Stat., 14 Ed. III, 4th, c. 2.

[63] The Statute of Provisors, 25 Ed. III.

[64] *Fœdera*, R. ii, 1231, 1233; O. v, 381, 385.

[65] *Cal. Cl. Rolls*, 18 Ed. III, p. 356.

REX *v.* GERDESTON

1315 A case which was a *cause célèbre* of the fourteenth century is for the first time, so far as is known, printed at length here. It arose out of an endeavour on the part of one of the magnates of the realm, John de Warenne, styled indifferently Earl Warenne, Earl of Surrey or Earl of Sussex, to obtain a divorce from his wife Joan of Bar, granddaughter of Edward I and niece of Edward II, the reigning sovereign. From the Patent Roll of 1316 [1] we learn that Matilda Neirford, whom we know to have been the earl's mistress, brought a suit of nullity of marriage against the countess before Thomas Gerdeston, archdeacon of Norfolk. The ground alleged was a precontract with herself which by the canon law was, under certain conditions, held equivalent to a marriage.[2] Upon such an alleged contract in the following century Edward V was declared illegitimate and deposed.[3] The case recorded here arose upon the initial step of the suit, the citation of the countess. By the Constitutions of the Cardinal Legates Otho and Ottobon, published in London in 1237, restrictions had been imposed upon the clergy in dealing with matrimonial causes. Only men of prudence, trustworthiness, and legal knowledge were to handle questions of such importance. Deans, archdeacons, or abbots, by privilege or custom exercising such jurisdiction, might retain it with due care and diligence, but in any case definitive sentence was not to be pronounced without prior consultation with the bishop.[4] Notwithstanding these restrictions, the persons primarily here inculpated were the archdeacon's official and his deputy, one Robert, chaplain of Yaxley, Norfolk, from which county the knightly family of Neirford sprang. Both by royal charters and papal bulls, the palace was exempt from ordinary ecclesiastical jurisdiction, yet the chaplain had ventured to cite the countess in person when she was in attendance upon the queen in the crypt of St. Stephen's. As he was but an underling, the official and archdeacon himself were also proceeded against as responsible for him. The offence of the archdeacon and his official was declared by the king's attorney punishable with a fine of £20,000, as being in contempt of the king and "against his crown and dignity," a form illustrating the antiquity of the language of the modern indictment. By the citation the countess was summoned to appear before the archdeacon or his commissary at Brackeden, now known as Bracon Ash, near Norwich. It does not appear what governed this choice of place, for the manor appears to have been in the family of Peverel;[5] so probably the archdeacon's church was here, where he held his court.

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[1] 10 Ed. II, m. 32. *Calendar* (1898), p. 434, vide infra.

[2] See Pollock and Maitland, *Hist. of English Law* (1898), ii, 366; also O. J. Reichel, *Complete Manual of Canon Law* (1896), i, 349.

[3] See the "Act for the settlement of the Crown upon the king (Richard III) and his issue," etc. "At the tyme of contract of the same pretensed marriage (with Elizabeth Grey) and bifore and longe tyme after, the seid King Edward (IV) was an stode maryed and trouth plight to oone Dame Elianor Butler, daughter of the old Earl of Shrewesbury, with whom the same King Edward had made a precontracte of matrimonie," etc.

[4] Constitutiones Othonis Cardinalis xxiii. Ne causae matrimoniales judicibus imperitis committantur. D. Wilkins, *Concilia* (1737), i, 654.

Archdeacon Gerdeston filed a defence repudiating responsibility for the citation. He knew nothing of the process, he alleged, until he received from his diocesan, the bishop of Norwich, notice that the king had ordered the bishop to transfer the case to himself. As this was a suit in an ecclesiastical court, this must mean that the king procured a *stet processus* until the question of violation of privilege had been decided before himself and the council. Upon receipt of this notice, the archdeacon avers that he at once inhibited his official from taking further steps. This inhibition the official who appears to have been the Rural Dean of Cranwich, in Norfolk,[6] acknowledges himself to have received and avers that in compliance with it he abstained from any further intervention. The king's attorney, on the other side, produced a record of the proceedings before the official which had been transmitted by the bishop of Norwich. Among these it was set forth that the chaplain of Yaxley in the presence of a public notary, Robert de Cockerton, acknowledged that on the 8 March, 1315, he had given notice to Joan of Bar that she was cited to appear in the church of St. Nicholas Brakeden as respondent in a suit for a divorce from her husband, the Earl Warenne; that the countess not entering an appearance was pronounced by the official to be in contumacy and citations ordered to be posted up at the doors of certain churches and in certain manors; and that by these she was again ordered to enter an appearance and file an answer in Brakeden Church, the time being enlarged from 15 March to 12 April, 1315. Confronted with this document, the official pleaded by way of confession and avoidance, that though he was responsible for what had taken place, the record shewed that no citation had been served, but only notice given that a citation had been issued elsewhere. Further, the notification was not made by him, but by a certain dean of the diocese of Norwich; and any other proceedings to which he himself had been a party had been not consequential to that notification, but independent of it and in accordance with the forms of the law ecclesiastical. Inasmuch as the proceeding in the crypt of St. Stephen's appears to have satisfied the canonical exigencies respecting citations and to have justified, in the opinion of the accused ecclesiastics, the consequent charge of contumacy, the official's refinement was held unsubstantial. This conclusion was fortified by his inability to produce any evidence of the more formal and attested citations to which he had referred in his defence, so that he was estopped from pleading the invalidity of his own procedure. In the words of the judgment, "he continued his process upon the same notification as if it were a due and manifest citation." His culpability was enhanced by his disobedience to the inhibition issued by the archdeacon. He was therefore committed to the Tower of London during the king's pleasure. The archdeacon, as formally responsible for proceedings in his name, was ordered to appear at the next parliament, while instructions were issued to the sheriffs of London, Yorkshire, and Lincolnshire to arrest the notary and witnesses guilty, with the official, of contempt of court and produce them before the king on 25 June following.

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[5] *Cal. Inq. post mortem*, 7 Ed. II, i. 149, 259, cf. ibid. ii, 136.

[6] As to this see p. 29, n. 24.

So far as this batch of papers is concerned, the case stops here, but other records enable us to trace its subsequent fortunes. The council could not take upon itself to stay proceedings in a court christian. That was effected by the inhibition of the diocesan, the bishop of Norwich. But though Edward II was not of a temper to overlook an invasion of his prerogative, he entertained no objection to the divorce of his niece, with whose ill relations towards her husband he was acquainted. Three years previously he had dispatched one of his yeomen to the earl's castle of Conisbrough in Yorkshire to bring the countess to him at Windsor. The yeoman discharged his mission, to the displeasure of some one highly placed and high-handed enough to render it expedient for him to obtain a special patent of indemnity from the crown.[7] The countess herself, under the protection of a bodyguard, was lodged in the Tower.[8] It can scarcely be doubted that the intimidator was the earl himself, who was frequently at variance with the king. In 1316 the countess appears to have acquiesced in the earl's proceedings for divorce. There is enrolled in the Patent Roll for 24 February, 1316,[9] a license granted by the king at the request of John de Garenne (*sic*), earl of Surrey, to bring his suit for a divorce against Dame Joan of Bar, the king's niece, in the court christian. A license was also granted[10] to Matilda de Neirford, "upon withdrawing from her process of precontract which she is bringing before Master Richard de Ryngestede, official of the archdeacon of Norfolk," to commence proceedings against the earl and countess touching such precontract "before Master Gilbert de Myddelton[11] and Master William de Bray,[12] canons of the church of St. Paul, London, and the Prior of the Trinity[13] . . . or others."

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[7] *Cal. Pat. Rolls*, 7 Ed. II, p. 12.

[8] *Cal. Close Rolls*, 7 Ed. II, p. 45.

[9] *Cal. Pat. Rolls*, 9 Ed. II, p. 434.

[10] Ibid. It is not clear why this license was required unless the countess was, as is probable, a ward of the king. Her mother died in 1298, and her father went to Cyprus, whence he seems never to have returned, about the same time. At the date of her marriage in 1306, she may have been as young as nine years of age, and could not have been more than thirteen.

[11] Gilbert de Myddelton held the prebend of Wiltland in St. Paul's Cathedral at some date between 1309 and 1318, in which latter year he was promoted by the king, the see being void, to that of Wenlakesbarn. J. Le Neve, *Fasti Eccl. Angl.* (1854), ii, 320, 444, 448. *Novum Repertorium*, ed. G. Hennessey (1898), pp. 53, 54.

[12] William de Bray held the prebend of St. Pancras, 1314–1324. Le Neve, ibid. p. 423. He was also Rector of Chelsea, 1316–19. *Nov. Rep.* p. 119.

[13] The priory of the Holy Trinity within Aldgate. The Prior at the date of the

That the countess was a party to these proceedings is evident from the next clause in the patent. Within the quarter of a year after the divorce is pronounced, the earl is to enfeoff her of 740 marks (£493 3s 4d) a year of land in the towns of Graham[14] and Gretwelle,[15] and the soke of Gretwelle, and to give security for the due performance thereof. He was also to be discharged from his recognizance in £200 for the maintenance of Dame Joan pending the suit[16] and for the costs. It is significant of the troubled state of the country that patents of protection were issued from Lincoln, where parliament was sitting, to him and to Matilda Neirford for them and their "men, advocates, proctors and witnesses, and their servants and witnesses," for their safe conduct.[17] The suit was promptly determined, the marriage with the countess being held valid. She had no issue, but in order, it may be inferred, to defeat, at least in part, her claim to dower, as well as to make provision for Matilda de Neirford and for his sons by her, the earl on 1 July, 1316,[18] surrendered to the crown a number of his manors in Surrey, Sussex, Wales, Yorkshire, Lincolnshire, and elsewhere. Of those in Surrey, Sussex, and Wales he received a regrant by patent, dated Lincoln, 4 August of the same year.[19] The terms of the patent were to the earl for life, with remainder successively to "John de Warenna and Thomas de Warenna," sons of Matilda Neirford in tail male. Of those in Yorkshire he received a regrant for life, with remainder to Matilda Neirford for life, with the same successive remainders to their two sons. Of those in Lincolnshire he received a regrant for life, with reversion to the king and his heirs, of the manors and towns of Staunford (Stamford) and Grantham. To this deferred consideration for its regrants the crown added the manor of Kensyngton, Surrey, of which it retained possession. Nor did it long abstain from anticipating its reversionary claims. By a deed of 25 October, 1317, the earl released the Lincolnshire manors.[20] Warenne never lived with his wife again. She quitted England in 1337 and died abroad in 1361. His sons by Matilda Neirford, John and Thomas de Warenne, appear to have died before him. He himself played a foremost part in the stormy politics of the day, as may be seen in Hunter's *Deanery of Doncaster*,[21] and in the *Dictionary of National Biography*, and died in 1347.

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license was Ralph de Cantuaria, who had held the office since 1302. He died before June, 1316. W. Dugdale, *Monasticon* (ed. 1846), vi, 150.

[14] There was a manor of this name in Lincolnshire. *Cal. Inq. post mortem* (1806), i, p. 60. But this was probably intended for Grantham, as will presently appear.

[15] Now Greetwell, two miles east of Lincoln. See also ibid. ii, 256.

[16] *Cal. Close Rolls*, 9 Ed. II, p. 325.

[17] *Cal. Pat. Rolls*, 9 Ed. II, p. 401.

[18] *Cal. Close Rolls*, 9 Ed. II, m. 2 d, p. 347, cf. *Pat. Rolls*, 9 Ed. II, pt. ii, m. 7. pp. 483, 484.

[19] *Cal. Pat. Rolls*, pp. 528, 529.

[20] *Cal. Close Rolls*, 11 Ed. II, m. 21 d., p. 569.

[21] Vol. i (1828), 108–110.

COSFELD *v.* LEVEYS

1322 The grievances of foreign merchants were often unheeded or unredressed, but the petition of Godkin Cosfeld was given an unusual degree of attention. This was due to its bearing upon the relations of England and the Eastland states at the time. Except with the Hanseatic League, there was no treaty with them as yet, but diplomatic intercourse was actively maintained with the various towns and principalities of those parts. From the early years of Edward II's reign grievances of Eastland merchants were being heard, that their ships were seized and goods carried off, while Englishmen made similar complaints of interferences on the part of Eastland privateers.[1] Thus there was imminent a war of reprisals.[2] In 1313 the king was in the midst of negotiations with the towns of Kampen, Lübeck, Hamburg, and others, demanding redress for the seizure of a ship from Boston. Only the magistrates of Kampen were willing to do anything, and they sent envoys to treat with the king and council in England.[3] But when the envoys appeared to be seeking only delays, all further negotiations were cut short by the king's decision to levy £1244, the amount of the English claims, upon the goods of the men of those towns by way of reprisal. There was no desire for further hostilities, for Edward had need of the commodities of those countries, particularly "corn and other victuals," [4] in the way of supplies for his Scottish war. In order to protect this traffic in corn and merchandise the king saw fit in 1315 to issue a special order to the warden of the Cinque Ports to defend the ships against the malefactors that were lying in wait to seize them.[5] The plans of the government therefore were seriously jeopardized by the success of such malefactors and the resulting stream of complaints, made by the men of Almain, of the piracies being committed off the coast of Lincoln, Norfolk, and Suffolk. An aggravation in the present case was the fact that two of the defendants, if not all four, were "king's mariners," men who were at other times commissioned to levy ships and sailors in the king's service. It is possible that in the present seizure they were acting on the pretext of the king's requirements. There were as yet no special tribunals, like the later chancery or the admiralty, for dealing with maritime cases, nor did the council hear them as a rule, and so the matter was referred to the king's bench to be treated by the common law. The king concurred in the opinion of the council that his own mariners should be punished no less severely than others. Their punishment was certainly not extreme, for they are soon found again in the king's service.

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[1] *Cal. Cl. Rolls*, 5 Ed. II, pp. 364, 361, 434, 569, etc.

[2] In 1314-15 merchants of England petitioned that they were being threatened in Flanders with arrest by reason of an arrest in England of men of Flanders. The king wrote to the count of Flanders offering to supersede all arrests if the count would do the same. *Rot. Parl.* i, 293.

[3] *Cal. Cl. Rolls*, 7 Ed. II, p. 26.

[4] Ibid., 16 Ed. II, p. 266.

[5] *Documents relating to Law and Custom of the Sea* (Navy Records Soc. xlix), p. 59.

REX *v.* MIDDLETON

1353 The special importance of this case is its bearing upon the whole history of the office of escheator. It was perhaps inevitable that an officer, whose function was the seizure of private estates into the king's hand, should be unpopular, and that escheators [1] should be habitually complained against, along with sheriffs and purveyors, as the most corrupted ministers of the crown. Usually it was the people who suffered from their extortions, but sometimes the king himself was defrauded. It was therefore a problem of long standing how the escheators should be appointed and controlled. Originally there appears to have been a single escheator for the entire kingdom.[2] Henry III began the system of two escheators, one for the lands north of the Trent and the other for the lands south of the Trent. In 1346 he divided the country further under four escheators, with subescheators for each county.[3] But the dual system returned. In response to local sentiment Edward I ordained that sheriffs should be escheators in their respective counties.[4] Possibly they were intended to act as subescheators, for the two escheators, north and south of the Trent, were continued.[5] As a check upon the general escheators, they were not permitted to remain in office long, and encouragement was given to all who wished to complain against them.[6] Still there was a feeling that over areas so large these officers were too powerful and too little responsible to local interests. Without abolishing the two general escheatorships, Edward III added several regional escheators, one for Somerset, Dorset, Devon, and Cornwall; another for Surrey, Sussex, Kent, and Middlesex; another for York, Northumberland, Cumberland, and Westmoreland.[7] In 1340 he consented to a statute, superseding the system of two escheators and establishing "diverse escheators of less estate," who should be chosen every year in the exchequer just like the sheriffs.[8] Under this system there was a ready inclination, as Edward I had proposed, to let the sheriffs be escheators in their respective counties. Just as William Middleton was sheriff and escheator in Norfolk and Suffolk, so it was in most of the counties of England. In the year 1350, for example, out of the twenty-nine counties that are available for comparison, all but six were given to the same person as sheriff and escheator.[9] After the fall of Middleton, as recounted in our case, the policy in regard to these appointments was completely changed. Taking the year 1362 as an experiment we find that throughout thirty-four counties in which comparisons are possible, with only two possible exceptions, the escheators were not the same men as the sheriffs, nor does it appear that the earlier policy was ever restored. The result is all the more significant when considered in connexion with other steps that were taken toward the diminution of the functions of the sheriff.[10]

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[1] They were prone to conceal wardships, to maintain pleas, to form confederacies, etc. *Statutes of the Realm*, i, 236-238.

[2] Such an office was granted to Peter de Rivaulx in 1232, with the custody of all escheats and wardships in England. *Cal. Pat.*, 16 Hen. III, p. 491.

[3] Ibid., 30 Hen. III, p. 482.

[4] Madox, *Hist. of Exch.*, ii, 175.

[5] The Close Rolls in fact show no deviation from the custom of two escheators.

[6] The Statute 20 Ed. III, c. 6, laid down that in all cases of misdemeanor of sheriffs, escheators, etc., the chancellor and treasurer should hear the complaints of all who would complain, and ordain speedy remedy.

[7] *Cal. Cl.*, 8 Ed. III, pp. 201, 203, etc.

[8] Stat. 14 Ed. III, c. 8.

[9] The sheriffs are given in *Lists and Indexes* (Pub. Rec. Office, vol. ix); the names of escheators are found in *Close Rolls* and *Fine Rolls*, passim.

REX *v.* ROUCEBY AND AVENEL

1354 The king's case against William Rouceby in 1354 is to be understood in connexion with the policy of Edward III toward Genoa. This was to maintain at all costs friendly relations with the city in the midst of the war with France, while the Genoese, like the Swiss in the military operations of a later time, were inclined to lend their aid now to one side and now to the other. At a heavy cost the king succeeded in negotiating treaty after treaty, by which the city agreed to make no alliance with the king's enemies.[1] In one case, mentioned in 1338, he went so far as to compensate the owners of a Genoese galley out of his own privy purse.[2] In the treaty of 1347 an indemnity of £10,000 for certain recent losses caused by English sailors was promised, and another indemnity of 8,000 marks for losses dating from the reign of Edward II.[3] The method of paying these indemnities was the uncertain one of remitting custom duties to an equivalent amount. To the same end letters of protection and safe-conduct were liberally granted to Genoese merchants, to come and go in all parts of the realm, provided they did not communicate with the enemy.[4] But the work of diplomacy was being endangered by the acts of privateers causing the Genoese to complain again and the king to promise further indemnities. In 1353 the king specially commanded his admirals to observe the protections that had been granted to various shipmasters of Genoa.[5] Under these circumstances the attack made under the orders of John Avenel the king's captain and lieutenant of Brittany, as recounted in the present record, was peculiarly disconcerting.

There had been previous complaints of the same kind against the captain of Brittany, who was prone to seize vessels that were driven by storm or were awaiting a favorable wind in the havens of the principality. On two occasions Thomas Dagworth, a predecessor of John Avenel, was called to answer for such seizures before the king's council.[6] Of the outcome we know nothing, except that Dagworth was soon afterwards followed by another captain. The present case is remarkable for affording a complete record of the hearing at one stage before the council. Evidently a suit was first begun on complaint of the injured Genoese merchants, but because of its public interest the suit had been dropped in favour of a prosecution in the name of the king. At this point our record begins. According to a now established procedure, the hearing was in the chancery "according to the custom of the chancery." [7] To use the language of a later day, the method pursued was of the common law rather than the equitable side of the chancery, that is a plea in the Latin language, an arraignment of the defendants, pleadings, and proof by means of an inquisition. The court, however, was the council, from which the chancery as a body of judicature had hardly begun to diverge.

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[10] See *Ughtred* v. *Musgrave*, p. 54.

[1] *Fœdera*, R. III, i, 205, 218, 243, 280; O. 569, 687, 703, 738, 789.

[2] Ibid., R. II, ii, 1011.

[3] Ibid., iii, 126 f.

[4] *Cal. Pat. Rolls*, 1374–77, p. 507.

[5] Ibid., 27 Ed. III, p. 472.

[6] *Cal. Close Rolls*, 23 Ed. III, pp. 4, 54, 65.

The defence attempted to show that there had been an evasion of custom duties, in that the ship had stayed in the waters of Brittany through three flows of the tide, the men even coming ashore, and then sailed away in the night. The vessel, having been pursued and captured at the Scilly Islands, was claimed as a prize of the captain of Brittany, who under his grant of office claimed all the revenues of Brittany, such as had pertained to the former dukes.[8] There were two questions, therefore, before the court: was the vessel a lawful prize ? and, if so, was it a prize of the captain ? The defence was completely swept aside by the discovery that the ship was coming to Bristol under letters of safe-conduct. Since it was bearing a cargo of wine, a trade specially favoured, it was entitled to come in fact to any port. Under the Ordinance of the Staple, recently passed, foreign merchants were promised redress against the king's officers without being required to sue at common law. Almost before the case was finished, John Avenel was dismissed from the captaincy of Brittany, and another appointed in his stead.[9] He was afterwards convicted by the council, we learn from another source, and his property confiscated to pay for the restitution of the ship.[10] His servant William Rouceby escaped further obligation by leaving a record that he had accounted to his master in full for the ship and cargo. To the Genoese merchants, in recompense for this and other losses, a remission of the duty on 1,000 sacks of wool was promised.[11]

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[7] *Rot. Parl.*, i, 433; Marsden, *Select Pleas in the Admiralty* (Selden Soc., 1892), i, xxiv.

[8] This was stated in the grant to Sir Walter Bentley, John Avenel's predecessor, *Fœdera*, O., v, 683.

[9] Thomas Holland is mentioned as already appointed captain on 26 March. This was before all the consequent writs of the case were issued. *Cal. Pat.*, 28 Ed. III, p. 65.

[10] These facts are stated in a writ of 6 May, 1355 (*Cal. Pat.*, 29 Ed. III, p. 207). His estate was finally released from further claims after his death in 1460 (*Cal. Cl. Rolls*, 34 Ed. III, p. 49; also 35 Ed. III, p. 184).

[11] *Cal. Pat.*, 28 Ed. III, p. 92.

BURTON-ON-TRENT *v.* MEYNELL

1355 The petition of *Burton-on-Trent v. Meynell* is a complaint against an aggressive knight of the county who has been committing deeds of violence against the abbey. According to evidence derived from other sources the abbot and convent had made an earlier complaint, which was answered by the appointment of a commission of oyer and terminer.[1] The present complaint repeats the charges and adds that because of the dire threats made by their enemy, they dare not sue before the commission. They pray therefore that the defendant may be brought before the king and council to answer.

The petition points directly to a deficiency in the system of commissions of oyer and terminer then extensively used. This was a method, begun by Henry III and elaborated by Edward I,[2] that had long been the favorite means of the council for dealing with criminal cases of exceptional difficulty. Even when the council gave a preliminary hearing, it was likely at one stage or another to refer the case, if not to one of the regular courts, then to a commission. The creation of general commissions, like those of the justices of the peace in every county, did not diminish the number of special commissions, which were granted by hundreds every year. The system possessed manifest advantages, in that it relieved the council of an excess of business; the commissions could be created to any number; they might be composed of men especially suitable for the case in question; and they could act with promptness in the immediate neighborhood where the events occurred. The commissions were not altogether unpopular, for many a petitioner asked for an oyer and terminer as an alternative to a hearing before the king and council.[3] There was a prevailing feeling, however, that the commissions were an irregularity in judicial procedure, and that they were appointed too freely and to the detriment of the law. The Statute of Westminster, 13 Edw. I, c. 29 granted that no such commissions should be appointed except to regular justices, "unless it be for heinous trespass," and again the Statute 2 Edw. III laid down that writs of oyer and terminer should be granted only "for grievous and horrible trespass." The Statute 20 Edw. III, c. 3, required that justices of oyer and terminer should take a professional oath.

But the more the commissions were regulated, the more plainly do their limitations appear, and the less are they able to deal with extreme conditions. Following the procedure of the common law they were often corrupted and defied in the same way as other courts. In 1354 there was a flagrant instance of a session of commissioners in Lincolnshire being broken up by a certain knight who invaded the hall where they were sitting, and with drawn sword seized one of the justices by the throat, and would have killed him had others not prevented.[4] In this case the knight was to be arrested and brought before the council. Later cases in this volume, like *Atte Wode v. Clifford*, show how the commissions might fail because their juries were corrupted or because sheriffs and bailiffs were in league with this or that powerful party. But more often the commissions are spoken of as " procured " or " stolen," that is appointed in the interests of one party or another, possibly " champertors " interested in the suits brought before them.[5] Among many complaints of this kind, there was one of the parson of Southampton, 5 Richard II, who alleges that the prior of Huntingdon has obtained a commission of oyer and terminer, and has thus gained an unjust award of £90 against the parson. He therefore prays that the matter may be examined by the good men of the realm in the present parliament and particularly that no oyer and terminer be granted.[6] One of the worst abuses in connection with the commissions was revealed in the parliament of 1364–65, when the commons alleged that the king had appointed commissioners of oyer and terminer for life, granting them a third of the fines and amercements of their sessions, so that they were disposed to procure as many indictments as possible for the sake of the profits. The king consented to abolish all such commissions and to appoint only suitable men in the future.[7]

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[1] This commission was dated 12 Dec., 1354, and was issued to Richard Stafford, Roger Hillary, and Nicholas Langford as justices. *Cal. Pat.*, 28 Ed. III, p. 164.

[2] Treated in *King's Council*, pp. 265 f.

[3] *Rot. Parl.*, i, 60, etc.

Now the prayer of the abbot of Burton that his case might be heard by the council was not granted. Instead, a strengthened commission of oyer and terminer was all that was conceded.[8] Sir Richard Stafford,[9] an experienced commissioner in cases of the sort, and four of the most reputable of the king's justices [10] apparently succeeded in terminating the conflict. At least it is heard of no more. But the council could not refuse every petition of the kind. In the first year of Richard II it was conceded in parliament that there might be cases " against such high personages that right could not be done elsewhere." [11] The council heard at length such cases as *Esturmy v. Courtenay* (p. 77) and others that follow. In answering the petition of *Werkesworth v. Pensax* (p. 81) the council made a further acknowledgement of its duty to hear the case of a poor suppliant against a great malefactor. In all these cases the evidence is not that the council eagerly usurped the power, but rather that it yielded to the pressure of suitors in taking the responsibility.

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[4] *Cal. Pat.*, 28 Ed. III, p. 166.

[5] *Ancient Petitions*, nos. 14,969, 15,200, 12,824.

[6] Ibid., 7129.

[7] *Rot. Parl.*, ii, 286; also 302.

[8] This commission was issued on 1 Feb., 1355, to Richard Stafford, Henry Greene, Nicholas Langford, John Cokeyn, and Robert Fraunceys. *Cal. Pat.*, 29 Ed. III, p. 229.

[9] Of Clifton, brother of Ralph, first earl (*Dict. Nat. Biog.*). Not only did he serve on a great number of commissions in Staffordshire, Oxfordshire, and Derbyshire, but he was notably successful in securing indictments (*Cal. Pat.*, 26 Ed. III, p. 366; 27 Ed. III, p. 522), and in one case convicted a man in £1000 (ibid., 31 Ed. III, p. 606). On the same day as the above commission, 1 Feb., he was appointed to another commission to deal with a case of murder at Burton on Trent (ibid., 29 Ed. III, p. 233).

[10] Henry Greene was justice of common pleas in 1341, and 1341-56, and chief justice of the king's bench, 1361-65. Nicholas Langford held the manor of Langford in Derbyshire. Cokeyn and Frauncevs were active commissioners, the latter commissioner of the peace in Derbyshire.

[11] *Rot. Parl.*, iii, 21.

LOMBARDS *v.* MERCERS

1359 Almost all details of the outbreak of the London mercers against the Lombards have vanished, save those preserved in the document here printed. It cannot, however, be doubted that the incident was part of that long struggle between the crown and the boroughs which had become acute under Edward I and in the middle of the fourteenth century, after various vicissitudes, was resolved, with the aid of parliament, in favour of the crown.

In the year 1303, Edward I by a masterful stroke of policy granted to foreign merchants a general charter, well-known as the *Carta Mercatoria.*[1] Among those whose security, as the preamble recites, it was specially devised to safeguard, were the merchants of Lombardy. All foreign merchants were to be at liberty to enter the English dominions with all kinds of merchandise, exempt from certain specified local exactions. They were to be free to sell by wholesale in all cities, boroughs, and market towns, while two classes of them, the Spicers and the Mercers, might retail spices and the wares called mercery. This provision gave legal authority to a practice already established,[2] but one which was, nevertheless, unpopular in the towns, since it infringed the principle, jealously maintained where possible, that outsiders, whether alien or native, should be excluded from retail trade. A number of other provisions followed in favour of alien merchants, in return for which they undertook to pay certain fixed duties at the ports. From the first the citizens of London were restive to the new regulations.[3] Soon after the accession of Edward II, they assailed the *Carta Mercatoria*, and in 1311 procured a royal ordinance for its revocation, " because the same was made contrary to the Great Charter and the franchise of the City of London, and without the assent of the Baronage." " Henceforth," it was ordained, " Merchant Strangers shall come, abide and go according to the ancient customs, and according to that which of old they were wont to do." [4]

Whether or not this ordinance was intended to exclude alien Mercers from retail trading,[5] it was so interpreted by the citizens of London. But in 1322, the successes of Edward II over the barons turned the tables in favour of the foreign merchants, and their old privileges were restored. The wrath of the Londoners blazed forth. The Italians, on this and other grounds, particularly odious, were attacked, and the houses of the Company of the Bardi plundered and burnt.[6] In 1326 the freedom of the City was withdrawn from all aliens.[7]

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[1] 1 February, 1303. At length in Edward III's *Inspeximus and Confirmation* of 8 Aug., 1328. Rymer, *Fœdera* (Hague ed., 1740), II, iii, 15.

[2] " Ita tamen quod merces quos vulgariter merceriae vocantur, ac species minuatim vendi possint, prout antea fieri consuevit." Ibid.

[3] *Letter-books of the City of London* (ed. R. R. Sharpe, 1901), C, pp. xv, xvi.

[4] 5 Ed. II, c. 11.

[5] Schanz (*Englische Handelspolitik,*

A partial reaction followed. In 1335 parliament laid down the principle of liberty of trade to aliens as established by the *Carta Mercatoria*. The preamble of the statute of that year[8] recites that general complaints had been made "that in divers cities, boroughs, ports of the sea, and other places of his (the king's) realm, great duress and grievous damage have been done to him and his people by some people of cities, boroughs, ports of the sea, and other places of the said Realm, which in long time past have not suffered, nor yet will suffer merchant strangers, nor other, which do carry and bring in by sea or land wines, Aver de pois,[9] and other livings and victuals, with divers other things to be sold, necessary and profitable for the king, his prelates, earls, barons, and other noblemen, and the commons of this realm, to sell or deliver such wines, livings, victuals, nor other things to any other than to themselves." The consequence is alleged to be an enhancement of price to the injury of the consumer.

As a remedy for these mischiefs, freedom to sell was granted to the alien merchant and forfeiture of franchise denounced against the borough contravening this principle, while any person guilty of "disturbing" such merchant was punishable with double damages, a year's imprisonment, and a fine to the crown. One concession of importance, however, was not regranted, that of liberty for aliens to trade by retail.[10] That step was taken in 1351,[11] when retail trade was thrown open, "notwithstanding any franchises, grants, or custom used," to the traders enumerated in the Act of 1335. Probably on account of the opposition excited, it was thought necessary to confirm the principle in a statute of 1353.[12] Other statutes for the encouragement of foreign traders were passed about the same time.[13]

In the light of these events, the exasperation felt by the citizens against those aliens who were specially engaged in retail dealings, as were the Lombard mercers, becomes intelligible. It must be understood that the mercer at that date was by no means restricted to a trade in silk goods.

1881, i, 394) thinks that this was so, but the concluding clause, quoted above, appears designedly ambiguous.

[6] Villani, *Istorie Fiorentini*, B, 10, c. 3. Schanz, i, 395.

[7] Riley, *Memorials*, p. 151.

[8] 9 Ed. III, st. 1, c. 1.

[9] "Small wares that were weighed by avoir-du-poise, and were sold by the Mercers, in contradistinction to those weighed by the Great Beam, and sold wholesale by the *Grossarii* or Grocers." *Liber Albus* (ed. by H. T. Riley, 1861), p. 198, n. 2.

[10] See the Third Charter of Ed. III, dated 26 March, 1337, which abolishes exemptions in favour of retail trade by aliens, any statute notwithstanding. W. de G. Birch, *Historical Charters* (1887), p. 61.

[11] 25 Ed. III, st. 3, c. 2.

[12] 27 Ed. III, st. 2, c. 11.

[13] See Schanz, i, 397.

As late as 1696, Phillips defines a Mercer as "in the City one that deals only in Silks and Stuffs: In Country Towns, one that trades in all sorts of Linen, Woollen, Silk, and Grocery wares."[14] It is probable that the limitation of the term occurred at a comparatively late date. Hence, the foreign mercer would be a competitor with traders dealing in a variety of goods, which have been enumerated as comprising "bombazine, fustian, Suile,[15] Armour, all sorts of workes made of Iron, or brasse, and other merceries."[16]

Lombard Street was the home of the foreign mercer. "The Mercery," says a writer of 1662, "is gone from out of Lombard Street."[17] It was not here, however, but in the English mercers' quarter that the outrages took place which were the subject of inquiry in these documents.

The original complaint of the Lombards has not survived. That they were mercers cannot be doubted, since their assailants were of that mystery. That they were subjected to personal violence of a grave description we shall presently see. Some five years earlier the ill usage experienced by alien traders at the hands of the citizens had led them to petition that a member of the council might be specially commissioned to give audience to their complaints, seeing that the treasurer and the chancellor, to whom they were referred, had so much important business to transact that they forgot that of minor interest.[18] The answer given was that the treasurer and chancellor should hear their complaints when they could and, if prevented, should appoint judges or other experts to do so. Whether the riot was suppressed by the city authorities, or by the peremptory intervention of the council does not directly appear, but the prayer of the Lombards in document A is a clear indication that they relied upon the king, and not upon the city, for protection. Further, some of the leaders, we know, were apprehended and thrown into the Tower, a royal fortress; others fled from justice. Two, however, as will presently be seen, fell to the custody of the sheriffs of London.

Justice was slow in those days. The only dated document here printed is B, 8 July, 33 Ed. III (1359). We learn, however, from the Close Rolls that proceedings had been set on foot before 1 November, 1357, to the summer of which year the riot belongs. At that date one of the accused, Adam de Wroxham of London, mercer, had already been before the council. The Close Roll in question[19] has a writ addressed to the sheriffs of London, ordering his release upon mainprise. The curious part of the order is that it purports to be issued upon the prisoner's own petition "as he fears that he may be impeached and troubled for certain trespasses committed in that city upon certain merchants of Lombardy with which he is charged." The condition of the release is that his mainpernors undertake to produce him "before the king and his council at order to answer for the premises." The writ is signed, conformably to the king's answer of 1354, by the chancellor. It would seem, therefore, that the city authorities were themselves contemplating action and that, for some reason not easy to guess, the accused preferred the tribunal of the council, probably by no means reluctant to assert a jurisdiction in the matter. A month later, 1 December, 1357, a writ issued by the chancellor addressed to Robert Morley, keeper of the Tower of London, or his deputy, ordered the release on mainprise to appear before the council of "Thomas de Maldon, of London, Mercer," imprisoned for the same offences. The writ recites that he had already been "a long while detained." [20] Two months later another writ from the chancellor ordered the constable of the Tower to release "Nicholas de Sharpenham, mercer," on the same terms.[21] Lastly, on 4th March, 1358, another writ issued from the chancellor to the sheriffs of London, couched in phraseology similar to that in the case of Wrexham, ordering the release of Thomas Everard of London, mercer, from their custody upon the same terms as to appearance.[22] In each of these cases the names of the mainpernors were set out as in the document B here published. That document, however, is, so far as it goes, a duplicate of the Close Roll, being, as it is, a return to the writ of 8 July, 1359. It is material to notice that in two of the above instances the council takes the prisoners out of the city's custody and itself assumes seisin of the case.

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[14] E. Phillips, *New World of Words* (ed. 5); quoted in the *Oxford Engl. Dict.*

[15] Qu. stuff for pillow-cases. "Souille — Taie d'oreiller, en quelques provinces." E. Littré.

[16] Blundevil, *Dict. Exerc.* V. ii (1597), quoted in *Oxford Dict.*

[17] J. Graunt, *Observations on the Bills of Mortality*," ix, 12. 56, quoted ibid.

[18] *Rot. Parl.* ii, 262, 57 (1354).

[19] Page 432.

In the case of Nicholas de Sharpenham, mentioned above, the Close Roll suggests problems other than those affecting the rest of the defendants. The Close Roll runs as follows: "To the Constable of the Tower of London, or to him who supplies his place. Order to release Nicholas de Sharpenham, mercer, from prison, by a mainprise, as the king ordered the constable to certify why Nicholas was imprisoned in the Tower, and he who supplied the Constable's place returned that Nicholas was delivered to him by Henry de Cove of London, mercer, and Richard Shakel, serjeant of London, who told him to keep Nicholas safely until the King's Council should send for him to be brought before the Council, and that he had no other cause or warrant." There follow the names of the mainpernors, as in the text of C, who "have mainperned in Chancery to have Nicholas before the Council when notified, to answer to the king and others when the king wishes to speak against him." [23]

The puzzling part of this entry is that Henry Cove, who with the city serjeant arrested Sharpenham, was not only himself a mercer, but was singled out by the complaining Lombards as a principal in the riot, while his servant Geoffrey Bernham actually headed the band of assailants.

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[20] Page 432.

[21] Page 498.

[22] Page 495.

[23] *Close Rolls*, 1 Feb., 1358, p. 498.

That Cove should have handed over Sharpenham to the acting constable of the Tower is another indication that it was an armed force from the council that first intervened. But why did he take action ? It may, of course, have been simply to divert censure from himself. There are, however, circumstances suggestive of another reason.

Nicholas Sharpenham, though a mercer, is not described as " of London," neither is his name to be found in the list of the leading mercers of London supplied by the complainant Lombards. Further, not one of his mainpernors is a Londoner, and two of them were persons of importance. They are all bracketed in C as belonging to the county of Surrey. One of them, Braghing, then represented Southwark in parliament, and another, Plummer, was elected for the county in 1360. It is well known that the vexatious restrictions imposed by the towns upon handicraft and commerce had the effect of driving trade into the country. This tendency had been enhanced by the pressure of royal and local taxation upon a town population very greatly diminished by the great pestilence of 1348–49.[24] What the city lost, the suburbs gained. The incidents here narrated suggest that Sharpenham and the inhabitants of Southwark sympathized rather with the Lombards than with the citizens, and that his arrest and imprisonment at the instance of Henry Cove, a leading city mercer, and of a city official, were the outcome of resentment on account of the part taken by him.

The feeling of the citizens is evident enough from the history of the case. Some six months after the release of Sharpenham upon mainprise, the king, then at Sandwich, issued a writ to the mayor and sheriffs ordering them to make inquisition into the riot. It is entered in the City Letter-book G as " Breve ad inquirendum de Merceris qui verberaverunt Lumbardos," [25] and is dated 7 October, 1359. No further time was lost. On the day following, the inquisition was taken " before John Lovekyn, Mayor of the City of London, and John de Chichestre and Simon de Benyngton, sheriffs of the same city," [26] by a jury of twelve. They returned as their finding that on the Monday next after the Feast of St. John the Baptist, in the 31st year, etc.[27] (1357), Henry Forester, mercer, Thomas de Meldone, mercer, and John Meleward, mercer, made a certain dreadful affray in the Old Jewry,[28] in the Ward of Colemanstret, in London; and of malice aforethought by force and arms did make assault on certain persons, namely, Francisco Bochel and Reymund Flamy, Lombards, and did wound, beat, and maltreat them and, against the peace of our lord the king, commit other enormities against them. They say also that Richard Phelip, mercer, abetted the said persons in making the affray and trespass aforesaid; and that the aforesaid Richard Phelip was present when the deeds aforesaid were committed; but that the same Richard did not strike Francisco and Reymund aforesaid. It was inquired of the said jurors, if any other persons had committed or perpetrated the offences and excesses aforesaid, or were present thereat, or gave aid or abettal to the same, or gave any cause for the same. They said that to their knowledge they did not."

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[24] See Dr. F. A. Gasquet, *The Great Pestilence* (1893), p. 187; *Select Cases in the Star Chamber* (1509–1544), p. ciii.

[25] *Liber Albus*, i, 621.

[26] Lovekyn was elected mayor in 1358. At that time the mayors were elected on the 13th October, being the Feast of the Translation of St. Edward the Confessor, and sworn in upon 29th October, the morrow of the Feast of St. Simon and St. Jude. *Liber Albus*, i, 19, 24, 31.

[27] Riley has a note that this was probably the Decollation, i.e., the 29th August. The date of the riot would in that case be 4 September. Riley assigns no reason for his conjecture, and it is more probable that the riot took place at the time of the popular festivities which accompanied and followed the ceremony of " Setting the Watch" on St. John's Eve, 23 June, and on the eve of the feast of St. Peter and St. Paul on 28th June. The Monday following St. John's day, the 24th June, would in 1357 be 26th June. In 1386 the orders to the Aldermen for setting the watch and marching through the city were expressed to be " for the view and report of strangers." *Memorials of London*, p. 488. Cf. ibid., 419, 433.

It would thus appear that of the eight persons specified by the complainants as the authors of the outrage, all but two, Forester and Meldone or Maldon, were acquitted by the citizens. Of these Maldon, according to the Lombards, had confessed his guilt before the council when first arrested. Nothing is known of Forester, save that he is said in document D to be at liberty upon mainprise, and that he had fled. But D gives the name of none of his mainpernors, except Alan Everard, and is a mere note of a verbal statement admittedly imperfect. Further, it is not confirmed by any of the lists of mainpernors in C. Since, as Coke insists, mainprise did not imply that the person mainperned had been in custody, these facts suggest the inference that Forester had continued to avoid arrest. There remains "John Meleward, mercer". His name is not found upon the list of leading mercers, nor was he mainperned, nor even accused by the complainants. No mention occurs of him, save in this inquisition. It may well be that if he were not a resident in London, the complainants may have been unable to identify him. It is a suggestive circumstance that the only instances I can find of persons of this name are associated with two acts of violence. A " John Meleward " was indicted at the end of 1355 in conjunction with a Bedfordshire gentleman, of the murder of John Relleye of Thurleigh, and of the robbery of other persons in Buckinghamshire.[29] Three years later, on 26 February, 1358, a pardon was issued to " John le Melewarde " of Gloucester on account of good service done in Brittany. He had been indicted of the death of John de Malverne, of which he was now declared innocent, and had apparently become an outlawed fugitive from justice. It is entirely consonant with the associations attached to this name that he should have been a leader in the attack upon the Lombards and should have become a fugitive from justice once more. Since the citizens were bound to return some one as guilty, Maldon standing convicted on his own confession, it may have been gratifying to their feelings to be able to fasten the blame upon two persons shady of reputation and skilled in evading the law. As for the abetter, Richard Phelip, his insignificance has defied identification. From such a finding the complainants must have reapt but meagre satisfaction.

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[28] The English Mercers lived " in Cheapside, St. Lawrence Jewry and the Old Jewry." Stow, ii, 258.

[29] 16 December, 1355. *Cal. Pat. Rolls*, p. 334.

PARSON OF LANGAR *v.* CONYNGSBY

1361 The petition of the *Parson of Langar v. Conyngsby* brings forward an appeal on error in the court of chivalry. According to the allegations of the parson the latter court had erred in two counts: first, that in a suit for damages an award had been made in the absence of the defendant; secondly, that the court had no cognizance of such a plea. The appeal was complicated by the circumstances of a detention under duress, and it was probably this aspect of the case rather than the former, that caused the council to give it attention.

Now the jurisdiction of the court of chivalry, usually mentioned as the court of the constable and marshal, was a debated question at this time. In this and other complaints it is asserted that the court was extending its jurisdiction from deeds of arms and war to pleas of various sort. We should have liked a decision upon the question at this time, but the council, being more concerned with the release of the parson from imprisonment and the future good conduct of his opponent, evaded that issue by bringing the parties to an agreement. As to the authority of the court of chivalry nothing further was done until the reign of Richard II, when by the Statute 8 Richard II, c. 5, it was laid down that pleas at common law should not be discussed by the constable and marshal; and that their court should have only what belonged to it. The intent of these enactments was more clearly stated in the Statute 13 Richard II, c. 2, which limited the court to cognizance of contracts touching deeds of war outside the realm, and to things of arms and war within the realm which cannot be determined by common law. Whether under this statute the court had cognizance of such a plea as that appealed by the parson of Langar, we are still in doubt. But this doubt is cleared by the Statute 1 Hen. IV, c. 14, that all appeals of things done within the realm were to be tried by common law, and all appeals of things done outside the realm were to be tried and determined before the constable and marshal. Whether the parson's affair touched a deed of war or not, it certainly occurred outside the realm.

Under the statutes appeals from the court of chivalry were invited and made easy. The usual ground taken by a defendant, as in the present case, was an exception to the jurisdiction of the court. In one such case it was held that a defendant who submitted to the jurisdiction of the court of chivalry could not withdraw, but if defeated, he might afterwards appeal to the king.[1] In 1399, the record of a case in this court was read in parliament,[2] but the usual method of the council, on receiving such a case, was to refer it to a commission of oyer and terminer.[3] The judgments then are seldom known.

MOLYNS *v.* FIENNES

1365 The petition of Gill de Molyns adds another illustration of the warning, "Put not your trust in princes." In 1365, she, then some three years a widow, petitioned the king and council against a claim put forward by one Robert de Fiennes, described as "of France," because born in that country, to the manor of Wendover, Bucks. The petition and the Patent Rolls disclose that the estate had belonged to the Fiennes family, but was seized by the king on the outbreak of the war with France, with which country, it would appear, they had elected to cast their lot. At the time of the seizure the widow's late husband, Sir John de Molyns, had stood high in favour with the king, and for some years the grants enrolled testify to the extent of his services or of his rapacity. At the close of his life, however, he had been accused of various acts of oppression, was thrown into prison, and his lands forfeited. Although most of these were subsequently restored to his widow, the manor of Wendover, as this case shews, was not, but reverted to the claimant Robert de Fiennes of France, who shortly afterwards sold it to Edward III.[1] Its immediate subsequent history associates it with notable names. Before 1370, it had been granted to William of Wykeham, bishop of Winchester, who resigned it in that, or the following year, after which the king granted it to his rapacious mistress, Alice Perrers. Upon the accession of Richard II in 1377, her lands were confiscated,[2] and a petition of her husband, Sir William of Wyndesore, in 1381 was unsuccessful in obtaining restitution of the manor.[3] It was granted in 1388 to Edward, Duke of York.[4] The case was obviously beyond the jurisdiction of the common law courts or of any tribunal but that of the king in council

UGHTRED *v.* MUSGRAVE

1366 The complaint by Sir Thomas Ughtred, and Sir John and Nicholas Hotham, against Thomas Musgrave, sheriff of Yorkshire, in 1366, furnishes an illustration of a popular grievance with which, throughout the thirteenth, fourteenth, and fifteenth centuries, the ears of the council were constantly assailed. Thomas Musgrave was probably the son of Sir Thomas Musgrave, a soldier and courtier who in 1350 was summoned to the house of lords. He was, therefore, a person of influential station, apart from his office. So also were the complainants, the father of Sir Thomas Ughtred being a knight of the Garter and having from 1343 to 1364 sat in the house of lords by summons. Sir John Hotham was a member of a distinguished Yorkshire family, probably the great-nephew of John Hotham, bishop of Ely, chancellor 1318–20, and son of Sir John Hotham, dubbed a knight of the Bath in 1327.[1] Nicholas Hotham was presumably of kin to him.[2] The charges against the sheriff were malicious arrest, false imprisonment, an endeavour to entrap the complainants into an attempt to abuse the forms of law, and the extortion of money. The legal snare alleged to have been laid for the plaintiffs was a suggestion that they should arrange for a collusive indictment of themselves and secure an acquittal from a jury to be packed by the sheriff. This charge was also the substance of a complaint by Sir Simon de Heserton, member of parliament for the county, and one William Craunsewyk, about whom nothing is known. Taken together these complaints[3] are a serious attack on the judicial powers then generally exercised by the sheriffs in their respective counties.

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[1] *Cal Pat. Rolls*, 9 Richard II, p. 67.

[2] *Rot. Parl.* iii, 452.

[3] These abound in the Patent Rolls from the time of Richard II.

[1] *Abbreviatio Rotulorum Originalium* (1810), ii, 316.

[2] *Rot. Parl.* iii, 14.

[3] Ibid., 130.

[4] Lipscomb, iv, 473. The account given in this work is far from accurate, as a comparison with the documents here cited will shew.

Now the sheriff's tourn, or circuit through the hundreds of the county, took place twice a year. In the twelfth century the sheriffs were apparently endeavouring to enlarge their jurisdiction, for the Assize of Clarendon in 1166 directs that persons charged before them with murder or robbery, and their accessories, should be sent before the king's justices for trial, and the Assize of Northampton in 1176 extends this provision to thieves (§ 7). Finally, Magna Carta (c. 24) lays down that no sheriff is to hold pleas of the crown. From this date, the sheriff's tourn was held, not to try prisoners, but to take indictments against them, like the inquest, still surviving, held before the coroner, on which a man can be put on his trial. But the sheriffs seem to have been ingenious in the invention of abuses of power. The Statute of Westminster the Second in 1285,[4] recites extortions by them from persons falsely charged with having been indicted in their tourns, to check which indictments were ordered to be sealed by a jury, and to be kept in duplicate, one copy by the jury indicting.[5] Nevertheless, in 1314, the commons of Suffolk were petitioning the king and his council for redress against false indictments preferred by subordinate officials at court leets and at sheriffs' tourns "de fere avantage a leur Mestres."[6] The complainants were referred to the chancery; but in the following year, at the Parliament of Lincoln, a serious effort was made to check the evil by requiring that the sheriffs, and also their subordinates, the hundredors, should be men of substance in their respective counties.[7] The outcry against false indictments, by which "loyal folk were often grieved and evilly imprisoned," rose again in 1327, when the king's justices were ordered to take cognizance of such cases.[8] The particular grievance in this instance was that the sheriffs put compulsion upon persons to prefer indictments, and this may be the secret of the numerous inquests to which the complainants, Ughtred and the Hothams, allege that they were vexatiously subjected. So persistent were the complaints that in 1330 the king and council took the drastic measure of removing all the sheriffs and their subordinates throughout England and putting them on their trial before a legal commission.[9] The enactment of 1327 that "in every county good men and lawful which be no maintainers of evil or barretors in the county should be assigned to keep the peace,"[10] thereby bringing into existence the county magistracy, further reduced the influence of the sheriffs; while in 1330, the Act[11] which established "keepers of the peace" throughout England forbade the sheriff to let to bail or mainprise those indicted before them. Nevertheless, the sheriffs were still recognized as "keepers of the peace," though second only to the new officials who presently attained the style of "justices of the peace."[12] It is to be noted in this connexion that Musgrave in his defence is careful to mention that he was one of the justices of the peace.[13]

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[1] The pleadings speak of the plaintiff as "Johan de Hothum Chivaler le fitz," p. 56, infra.

[2] T. C. Banks, *Dormant and Extinct Baronage* (1807), i, 346: *The Genealogist*, v, 33; W. A. Shaw, *The Knights of England*, i, 125.

[3] These complaints have not survived.

[4] 13 Ed. I, c. 13.

[5] 1 Ed. III, st. 2, c. 17.

[6] *Rot. Parl.* i, 293 b.

Now the charges against Musgrave were the more credible, in that they were not the first of the kind heard against the sheriff of York. Just a few years before, in 1358, there is the following entry on the Close Roll: "To the sheriff of York (Peter de Nuttle). Order under pain of £100 to desist from extortions, grievances, and injuries inflicted by him contrary to the great charter and other statutes: as the said charter and statutes contain that no sheriff or bailiff shall hold his tourn except twice a year and that in due and customary place, to wit once within a month after Easter and once within a month after Michaelmas, and if any sheriff do otherwise he should lose his tourn for that time, that sheriffs should take indictments by indented roll, one part to remain with indictors and the other with him who would take the inquisition, so that indictments may not be concealed; and now the king has learned from people of the county that the sheriff holds his tourns as often as and whenever he pleases without the customary places, takes indictments and inquisitions in private places without any indenture, under colour of which indictments he causes many men of the county to be taken and imprisoned at his pleasure until he has exacted heavy fines and ransoms for their mainprise."[14] Sheriff Nuttle was ordered further, on pain of £1,000 to deliver under seal all indictments for felony, etc. made before him, and these were to be brought before the king's council and then given to the justices of gaol delivery.[15] Several of the sheriff's ministers, we learn, were afterwards indicted before justices of oyer and terminer, and according to a precept were to be removed from office.[16] The sheriff himself was given a day to be before the king's council,[17] but whatever may have been done on that occasion, we do not know.[18] In the case of Musgrave the council gave the charges a complete hearing.

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[7] *Rot. Parl.* i, 343 b; 353 a; *Statutes of the Realm*, i, 174. *Statutum Lincoln' de Vice-Comitibus*, confirmed in 1328 by the Statute of Northampton, 2 Ed. III, c. 4.

[8] *Rot. Parl.* ii, 9 b, 12 a.

[9] Ibid., 60 a.

[10] 1 Ed. III, c. 16.

[11] 4 Ed. III, c. 2.

[12] *Rot. Parl.* ii, 64 b.

[13] P. 57, infra.

[14] *Cal. Close Roll*, 32 Ed. III, 8 Nov., p. 534.

The defence appears to rest in part upon a statute of 1331,[19] though it is not expressly cited. The sheriff charged the complainants with robbery, affrays, and what is now called blackmail; alleging that he had ample grounds for suspicion. The statute of 1331, after reciting the Statute of Winchester of 1285,[20] enacts that suspicious strangers passing at night are to be arrested and delivered to the sheriff, who is to keep them in ward until the coming of the justices, that is, of the royal judges. But, as a "keeper of the peace," his powers were far more extensive than those of the county magistrate of today. By a statute of 1360,[21] from which, according to Lambard,[22] the "keepers of the peace" first acquired the higher title of "justices," he was, as such, authorized, as one of a standing commission, "to pursue, arrest, take and chastise offenders, rioters, and all other barrators." As sheriff, therefore, he was empowered to arrest the defendants as nightly marauders, and as justice of the peace to "chastise" them. Lastly, he pleads a special commission directed to him by the king "that he should make arrest and execution of those who committed such robberies and affrays, or otherwise he would be held as a maintainer of the said robbers and malefactors." To the extremest lengths against persons so influentially connected he did not venture to go, but contented himself with imprisoning them in the jail at York, releasing them only upon heavy bail and exacting a fine from Thomas Ughtred's servant, whom he is accused of having tortured, contrary to law,[23] with the object of fabricating evidence against the master.

With the establishment of the magisterial courts of quarter sessions in 1388,[24] the sheriffs' tourn became insignificant, except as an engine of extortion, which it remained for another hundred years. Among the sheriffs' devices was that of not bringing their prisoners before the justices of assize, but detaining them in jail,[25] as Musgrave is accused of doing, and of charging them excessive fees.[26] These methods of oppression were, it is easy to see, the outcome of the practice of receiving indictments. Whereas indictments had, in the original contemplation of law, been bona fide presentments of facts by neighbours personally acquainted with them, and concerned for the redress of the wrongs involved, the sheriffs had invented a system of indictments preferred by creatures of their own, living at a distance from the persons indicted and in no way cognizant of the subject-matter presented. During the weak government of Henry VI these malpractices increased,[27] and they were the first mischiefs assailed by Edward IV's first parliament in 1461. The whole nefarious machinery of oppression is ruthlessly laid bare by the preamble of this statute, which illustrates the practices imputed to Musgrave in this case. " Whereas many of the king's faithful liege people, as well spiritual as temporal, by the inordinate and infinite Indictments and Presentments, as well of Felony, Trespass, and Offenses, as of other things, which of long time have been had and used within the counties of this Realm, and taken before Sheriffs for the Time being in the Counties severally, their Under-Sheriffs, their Clerks, Bailiffs, and Ministers, at their Tourns or Law Days holden before them severally in the Counties, which Indictments and Presentments be often times affirmed by Jurors having no Conscience, nor any Freehold, and little goods, and often by the servauntz menialx and Bailyffs of the said Shirrefs, and their Under-Sheriffs, by which Indictments and Presentments the said lawful liege People be attached, arrested by their Bodies, and put in Prison by the said Sheriffs, Under-Sheriffs, their Clerks, Bailiffs, and Ministers to the great duresse of their Persones; and they so being in Prison, by the said Sheriffs, Under-Sheriffs, their Clerks, Bailiffs, and their Ministers are constrained to make grievous Fines and Ransoms, and levy of them great Fines and Amerciaments for the said Indictments and Presentments, in great Hindrance and utter undoing of the said liege People; after which Fines, Ransoms, and Amerciaments so made and levied by the said Sheriffs, Under-Sheriffs, Clerks, Bailiffs, and their Ministers, the People aforesaid be inlarged out of Prison, and the said Indictments and Presentments be imbeziled and withdrawn." This time the axe was laid to the root of the evil. The power of the sheriffs to arrest or fine any persons indicted at their tourns was withdrawn. All indictments at the tourn were to be transferred to the Justices of the Peace at the next sessions, who were empowered to award process against the offenders so indicted.[28] Stripped of its power either to try or to accuse, the sheriff's tourn became practically obsolete.[29]

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[15] *Cal. Close Rolls*, 32 Ed. III, 13 Nov., p. 478.

[16] Ibid., 4 Jan., 1359, p. 482.

[17] Ibid., 4 Jan., 1359, p. 540; also 548.

[18] Nuttle was not removed from office until 30 Sept., 1359, when he was succeeded by Thomas Musgrave.

[19] 5 Ed. III, c. 14.

[20] *Statutes of the Realm*, i, 97.

[21] 34 Ed. III, c. 1 (1360).

[22] Eirenarcha, p. 3. Sir J. F. Stephen, *Hist. of the Criminal Law* (1883), i, 113.

[23] Bracton expressly lays it down that a prisoner should not be bound or chained, except where there was a danger of his escape, "Ne videatur coactus ad aliquam purgationem suscipiendam." F. 137, § 3. Fortescue's spirited denunciation of the practice of the Civil Law to extract confession by torture is in his *De Laudibus*, c. xxii. (Ed. A. Amos [1825] p. 228.)

[24] 12 Richard II, c. 10.

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[25] *Rot. Parl.* iii, 662 b (1411).

[26] Ibid., v, 110 a. Stat. 25 Henry VI, c. 9 (1445); see also ibid. c. 10.

[27] *Rot. Parl.* iv, 406 a; 450 a (1432, 1433).

[28] *Rot. Parl.* v, 493 b. Stats. 1 Ed. IV, c. 2 (1461).

[29] Sir J. F. Stephen. *Hist. of the Criminal Law*, i, 84.

It is particularly unfortunate that in this case the judgment of the council is so mutilated that only its general tenor can be arrived at; that is, a condemnation of the sheriff in damages, and a vindication of the innocence of Ughtred and the Hothams. What makes the defects the more lamentable is that the date of the judgment does not appear. The only date we have is 19th April, 1366, the "quindene" on which the petitions were filed. Parliament in this year met on 4 May, and was dismissed a week later. The receivers and triers of petitions were nominated on the opening day. There do not appear to have been any definite limitations of time for the sittings of the council as a judicial tribunal. But we know that, as early as 1426, the traditional practice, followed at a later date by the Star Chamber, was to sit in term time.[30] Nor is there any reason to suppose that in 1366 the transaction of judicial business by the council was any less expeditious than it appears to have been at the end of the fifteenth century.[31] Now in the year 1366, Easter Term began on 22nd April and ended on 4 June; while the succeeding term, Trinity term, began on 10 June, and ended on 1 July. If, therefore, this case was tried with such dispatch as there is some reason to assume, the judgment was probably delivered by or before the last mentioned date. But the displacement of Musgrave on 13 May indicates that it reached a speedier hearing.

The need for dwelling upon this point will now be seen. In the Patent Roll of 26 October, 1366,[32] occurs the following entry, remarkable in view of the judgment before us. "Westminster, Oct. 26. Pardon to Thomas Oughtred 'chivaler' indicted before John Knyvet and his fellows, justices of Oyer and Terminer in the County of York, of having, with other thieves unknown, robbed William Randeman of Richemond at Balderly 'in the Brome' of 100 s. of silver and a horse with 20 s. on Thursday after All Saints in the 31st year;[33] of having, with others unknown, robbed Alexander de Barton at Buttrehowe by Flawath of £14 in gold and silver and a horse worth 20 s. on Tuesday after the Epiphany in the thirty-ninth year;[34] and of having, with others unknown, robbed Peter, servant of Haynekyn Weland, at Polles in the forest of Galtres, of a horse and a bundle of wollen cloths of scarlet and other striped cloths, on Tuesday after Martinmas in in the twenty-sixth year[35] of the king's suit for the said robberies and felonies, and of any consequent outlawries.

Afterwards, on 30 October following, Thomas de Beverlee, William de Dalton, Robert de Garton, Thomas de Wilton, and William de Brunby of the county of York mainperned in the chancery for the good behaviour of the said Thomas Oughtred."

The commission of "John Knyvet and his fellows" is to be found in the Patent Roll, dated from Westminster on 20 June, 1366.[36] His fellows were

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[30] *Select Cases in the Star Chamber* (1902), p. lxviii.

[31] Ibid., p. lxix.

[32] *Cal. Pat. Rolls*, 40 Ed. III, pt. ii, m. 25, p. 319.

[33] Thursday, 2 November, 1357.

[34] Tuesday, 13 January, 1366.

[35] Tuesday, 13 November, 1352.

[36] *Cal. Pat. Rolls*, 40 Ed. III, p. 288.

Henry de Percy, Roger de Clifford, William de Fyncheden, and William de Wychyngham. The commission is one of Oyer and Terminer in the counties of York and Westmoreland, "touching all felonies, trespasses, conspiracies, extortions, oppressions, falsities, grievances, and excesses," etc. A commission issued at Westminster on 20 June could not well have been executed in Yorkshire before July. It has been seen that there is some ground to conjecture that before Ughtred appeared to these indictments he had, in his case against the sheriff, already secured the judgment of the council in his favour. It may well be supposed that he then and there availed himself of this favourable tide of fortune. Musgrave was defeated and in disgrace and Ughtred was probably armed with the king's pardon before he went northwards to plead guilty to these indictments. It can scarcely be doubted that the sheriff had cause to suspect a man, on his own confession guilty of three highway robberies, of the other offences laid by public scandal to his charge. The amazing thing is that Ughtred was influential enough, both in his own county and in London to extricate himself from charges which, if they were true, must have made him the terror of the country-side, and which, even if they were false, still left him under others which were true and scarcely less grave. It is difficult not to feel some sympathy with the sheriff whose displacement from office, as has been noted, dates from 13 May. Of the Hothams we hear no more.

LOWESTOFT *v.* YARMOUTH

78–80 The counter-petitions of Lowestoft and Yarmouth are incidental to a prolonged conflict of local interests, but are not without constitutional significance. In consequence of the silting-up of the haven of Yarmouth, which the townsmen in 1346 endeavoured to clear by cutting a new entrance, vessels had been compelled to take in and discharge their cargos in Kirkley Road. This is described in an Inquisition ad quod damnum of 1370,[1] as "a certain place in the sea, near the entrance of the haven of the same town" (Yarmouth). It would appear, however, that the name extended southwards over an indeterminate area, as far even as a mile south of Lowestoft, now known as Lowestoft South Roads, some ten miles distant.

The lading and discharge of vessels being carried on at such a distance from Yarmouth facilitated the evasion of the customs duties out of which the town maintained its fortifications and paid its dues to the crown. Upon petition of the townsmen, therefore, Edward III granted a charter, dated 22 August, 46 Ed. III (1372), annexing Kirkley Road to Yarmouth. The charter also prohibited the lading or discharge of cargo or of any herring, or other merchandise, within seven [2] leagues [3] of the town, unless the goods so laden or discharged were the property of the person so lading or discharging. "All letters granted to the town of Lowestoft, or to the men of the same," were by the same instrument revoked.

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[1] Printed in E. Gillingwater, *Hist. of Lowestoft* (1790) p. 122.

[2] See *Cal. Pat. Rolls*, 18 Aug., 1377 (p. 50), and *Cal. Charter Rolls*, v, 224.

[3] The league was not a statutory measure of length and was usually estimated at about three Roman miles. "Leuca occurs somewhat frequently in Anglo-Latin

This interference with the course of trade, the diversion of which from Yarmouth was beneficial to Lowestoft, naturally provoked resentment. It ran counter to the general policy of parliament, which in 1351 had passed a statute affirming the principle of unrestricted trade, "notwithstanding any franchises, grants, or custom used . . . to the contrary."[4] In 1376 a petition was presented to the king by the counties of Suffolk, Essex, Cambridgeshire, Huntingdonshire, Lincolnshire, Northamptonshire, Bedfordshire, Buckinghamshire, and Leicestershire praying for a restoration of liberty so far as the herring trade was concerned.[5] In response to this, the annexation of Kirkley Road to Yarmouth was revoked[6] (24 April, 1376).

In the following year (1377) an inquisition *ad quod damnum* was sent out by the town of Yarmouth alleging its inability to pay the crown dues and taxes unless its franchises were restored.[7] Upon this, a commission of inquiry which had been issued by Edward III and his council, but which had lapsed with his death, was revived.[8] Presumably upon the report of this commission, the matter came before the council, during the ascendency of John of Gaunt, Duke of Lancaster, on 6 April, 1378, "and consideration had of the losses sustained by the town,[9] and the further damage which, if it were left desolate, might arise on a sudden invasion by the king's enemies," a provisional order was made that Yarmouth should again enjoy its franchises in Kirkley Road until the next parliament.[10] In the meanwhile a fresh inquiry was to be instituted by a more important body consisting of seven commissioners, headed by the earl of Suffolk. These were instructed to visit Kirkley Road, Yarmouth, and Lowestoft and to certify the king and council at the next parliament, which met on 20 October, 1378, at Gloucester. On 7 October of that year the commissioners had sat at Yarmouth and on the following day at Lowestoft. They reported that Yarmouth was a place of defence, while Lowestoft was uninclosed, and that it would be for the public advantage that Yarmouth should have its charter restored.[11] It is certain that the Parliament of Gloucester was adverse to the class of privilege asserted by Yarmouth.[12] It was also strongly opposed to John of Gaunt. The

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law books (Bracton, Fleta, etc.); it is disputed whether in these works it means one mile or two." *Oxford English Dictionary s.v.*, league. See also Gillingwater, p. 125, n. In the Ordinance of Herrings of 1357, the word is "lewes," and in the *Statutes of the Realm*, i, 354, is translated "miles."

[4] 25 Ed. III, st. 3, c. 2.

[5] *Rot. Parl.* ii, 334.

[6] Ibid., p. 330. The revocation is printed in Gillingwater, p. 128, n. As to the part played by John of Gaunt, see p. xcv, infra.

[7] Gillingwater, p. 128.

[8] *Cal. Pat. Rolls*, 18 Aug., 1377, p. 50.

[9] This is, perhaps, an allusion to the attack by the French on the Yarmouth fishing fleet at Michaelmas, 1377. *Chronicon Angliae* (1874), p. 170.

[10] *Cal. Pat. Rolls*, 12 April, 1378, p. 188.

[11] Gillingwater, p. 128.

[12] *Rot. Parl.* iii, 47, 49.

commons complained that the dearness of herring there had previously attracted the attention of parliament; they recalled the inquiries already held, and they petitioned the king "to make due amendment for the profit of the whole realm." [13] Taken in connexion with the petition for freedom of trade generally "non obstante nulle chartre faite a contraire avant ces heures,"[14] carried in the same parliament it is easy to see that the opposition to Yarmouth was dominant and that the formal expression of the royal assent was a practical negative to the real object of the petition, greater freedom of trade. A new charter, dated at Gloucester, 14 November, 2 Richard II (1378), was issued, granting to the townsmen of Yarmouth "to have and enjoy all their franchises as well as they had them" before the revocation of 1376.[15] It may be taken to have been the defiance of parliament by John of Gaunt.

The proclamation at Lowestoft of the new charter led to riots and the opposition renewed its energies. When parliament met at Northampton in November, 1380, the inhabitants of Norfolk and Suffolk invoked the principle laid down in the Parliament of Goucester, "that grants by charter or letters patent contrary to statutes of general utility should be of none effect." [16] They roundly declared that the charter recently granted had been in despite of that statute and such an one as the parliament of 1376 had repealed because "qu'il feust damageouse et grevouse as Communes d'Engleterre." [17] The burgesses, they complained, would "not allow the said commons at any time of the year to buy or sell victuals or merchandise" in Kirkley Road.[18] A third commission was issued in 28 April, 1381,[19] again under the earl of Suffolk's ascendency, but this time including the name of Robert Tresilian, appointed in the following year chief justice of the king's bench. It was the year of the Peasants' Rising, which broke out at the end of May. Yarmouth had, as has been seen, secured the favour of John of Gaunt, who was particularly hateful to the rebels.[20] A band of them marched upon the town and compelled the burgesses to surrender their obnoxious charter. This they cut into two pieces, one of which they exhibited in various places in Suffolk to demonstrate their sympathy with the public welfare as opposed to arbitrary privilege.[21] The commission did not get to work until the rising was at an end. On 23 September, it held an inquisition at Lowestoft and another on 26 September at Norwich. The resolutions passed by the juries were that the privileges claimed by Yarmouth were opposed to common law, as well as to the statute passed by the parliament of Gloucester in favour of freedom of trade; that the wind frequently made it difficult for ships lying in Kirkley Road to beat up to Yarmouth, so that they were compelled to make jettison of their cargos of herring; that the townsmen of Yarmouth, on the authority of their charter, prevented the purchase and sale of victuals and merchandise by the general public at any time of the year in Kirkley Road; that ships bringing in their cargos of herrings to Yarmouth occupied twice as much time as if they discharged in Kirkley Road; and that Yarmouth could afford to pay its dues to the crown even without its privileges.[22] Parliament, which met on 16 September, 1381, was besieged by " the supplication of the commons of Norfolk, Suffolk, and all England " against the provisions of the charter of 1378. On the last day of its sitting, 25 February, 1382, the king and council revoked the charter so far as the franchise was concerned which prohibited any ship to discharge within seven leagues elsewhere than at Yarmouth and Kirkley Road or any fair or sale of merchandise to be held within the same distance during the fishing season.[23]

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[13] *Rot. Parl.* iii, 49.

[14] Ibid., 47.

[15] A translation of this charter is given by Palmer (p. 23), who ascribes it to 1379. But inasmuch as parliament only sat at Gloucester from 20 October to 16 November, 1378, and the king, judging from the "Fœdera," was only there between 8 October and 18 November, while in 1379 parliament was held in London, this must be a mistake, perhaps arising out of the fact that the date 2 Richard II covers from 22 June, 1378–21 June, 1379.

[16] *Cal. Pat. Rolls*, p. 633, 28 April, 1381. The recital makes the mistake of saying that this principle was laid down in the Parliament of Northampton and confirmed in that of Gloucester. But the Parliament of Northampton was held in November, 1380, two years after that of Gloucester. See *Rot. Parl.* iii, 75.

[17] *Rot. Parl.* iii, 95.

[18] *Rot. Parl.* iii, 95. By the charter trade was thrown open during the fair. See ibid., iii, 49.

[19] *Cal. Pat. Rolls*, 4 Richard II, p. 633. 28 April, 1381.

[20] E. Powell, *The Rising in East Anglia*, (1896), p. 59.

The parliament which followed, in May, 1382, shewed the same strong feeling in favour of unrestricted commerce. Foreign merchants were encouraged to trade.[24] Yarmouth was specially reprobated as one of those seaports in which the citizen " hosts," or supervisors of the transactions of strangers, habitually abused their position and were warned " to utterly cease and be amoved from their noyaunce and wicked deeds and forestallings." No impediment was to be placed either in the way of foreigners or of denizens to hinder their traffic in victuals or fish, " under the colour of any custom, ordinance, privilege, or charter before made or had to the contrary, which by tenour of these presents be utterly repealed."[25] Within two years and a half Yarmouth was again bewailing the downfall of its prosperity and invoking the aid of the king. A petition of February, 1385, set forth that the deprivation of its franchises had been followed by the depopulation of the town, " leaving it desolate and insufficient to defend itself against the king's enemies."[26] In the following year (1386), a petition, to which it secured the support of some members of the house of commons,[27] drew a graphic picture of its calamities. Its fee-farm rent and its tenth, added to its expenditure on its defences, involved it in heavier liabilities than any borough in the six neighbouring counties. The town was now so weak, poor, and wasted (degasté); and so scarce of people that those who remained could not support the burdens upon it. The commons, therefore, pray the king to regrant and confirm its ancient franchises.[28]

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[21] E. Powell, *The Rising in East Anglia*, (1896), p. 32.

[22] Gillingwater prints the inquisitions at length, pp. 130-132.

[23] *Cal. Pat. Rolls*, 25 Feb., 1382, p. 105.

[24] 5 Richard II, st. 2, c. 1 (1382) cf. *Rot. Parl.* iii, 142 b.

[25] 6 Richard II, st. 1, c. 11 (1382).

[26] *Cal. Pat. Rolls*, 20 Feb., 1385, p. 540.

[27] See below, p. xciii.

As the fee farm of the town, fixed by King John at £55,[29] was at hazard, always a consideration of moment to medieval treasurers, a regrant of the charter "according to the rate heretofore" passed the privy seal on 20 February, 1385, to stand until the next parliament.[30] Since parliament did not confirm the grant it was revoked as from the meeting of parliament on the 20 October, 1385.[31] In little more than a year, however, Yarmouth again prevailed over its rivals. A charter dated 28 November, 1386, recites the preceding grants, repeals, etc., and that a petition of the commonalty of England represents that Yarmouth supported greater charges "in the fortifications and support of the same town against enemies than any other city or burgh within six counties in circuit next adjoining," which it would be unable to continue to do, so "reduced, impoverished, and wasted" was it, unless its privileges were restored. The charter thereupon annexes Kirkley Road to Yarmouth, revises its privileges as to lading and unlading ships, etc. The new charter is not provisional. It is expressly stated to be granted by the assent of the lords upon petition of the commons,[32] an official formula of questionable veracity.

Of the case of its opponents the charter naturally says nothing. But among the petitions to parliament, of the year 1387,[33] is one which is doubtless a clerk's note of the effect of the petitions he enumerates, and runs as follows: "A nostre seigneur le Roy et a touz les Seigneurs en cest present Parlement supplient les Communes des Countes de Norfolk, Suffolk, Cantebrigge, Huntyngdon, et Bedford, que la Bille q'est livree a nostre dit Seigneur le Roy et as autres Seigneurs du Parlement par les Burgeys de Grande Jernemuth ne soit execute a contraire de l'estatut que voet que chescun lige du Roialme purra franchement achater et vendre en Citees, Burghes, Portz de Miere etc. ne encountre un repell fait en plein Parlement tenuz a Westminster l'an nostre Seigneur le Roy q'or est quint sanz

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[28] *Rot. Parl.* iii, 222 a.

[29] To this Edward III had added 100 s. a year, as consideration for the grant of the charter of 1372, which sum had presumably lapsed. Gillingwater, p. 121. n.

[30] *Cal. Pat. Rolls*, p. 540. Perhaps this is the event recorded by Palmer, the editor of Manship, as follows (p. 336): In 1382 Richard came in person to Yarmouth and "lykynge verye well thereof, did graunte them such privileges as before that tyme had ben by himself revoked uppon the slaunderous report of the men of Leistofte." This grant only continued until the meeting of Parliament in the following year, when it was abrogated, and the former act declared to be in force. I can find no confirmation of a visit of the king to Yarmouth in 1382. If it took place, it must have been between the meeting of Parliament on 7 May and that on 6 October. As the latter Parliament was followed by another on 23 February, 1383, the revised charter must in any case have enjoyed but a very brief existence, and I have failed to find any notice of it.

[31] Palmer, p. 24.

[32] Palmer, p. 24. An abstract of the charter is given in *Cal. Charter Rolls*, v, 305–306.

[33] *Rot. Parl.* iii, 254.

l'assent du tout le Parlement." It will have been observed that the charter thus objected to as an infringement of the rights of parliament is dated at the end of November. It appears probable, therefore, that the attribution of 1387 to the petition is an accident, which may have arisen from the postponement of the arrangement of the records of the parliament, which was dissolved on 28 November, 1386, the date of the charter, until the year had turned. This charter, dated 28 November, 10 Richard II (1386), was maintained during the rest of Richard's reign and during the reigns of subsequent sovereigns.[34] To what dates in the chequered story of this protracted struggle are these four documents to be assigned respectively? The earliest would seem to be the arguments (" instances ") advanced by Lowestoft against the grant of the charter, for which it states the bailiffs and burgesses of Yarmouth to be " now " suing. As it refers to Edward III, as the reigning king's grandfather, it undoubtedly belongs to the time of Richard II. But beyond this it affords no clue. The petition of Lowestoft (document B) for the revocation of the charter after it had been granted to Yarmouth by Richard II, is based upon its first petition, with amplifications and additions. It sets out in order the statutory history of the controversy under Edward III. It adds to the counties enumerated in the earlier petition, as aggrieved by the dearth of fish imputed to the privileges of Yarmouth, those of Suffolk and Essex. But is gives no indication of the length of time during which the charter assailed had been in force, nor of its own date. We can only infer this from C, the answer of Yarmouth, which takes the *gravamina* of Lowestoft in B, point by point. By this answer the retrospective limit of date of the charter of which complaint is made is fixed as 1378, the session of parliament held in October of that year at Gloucester. The indorsement, though not wholly decipherable, indicates that the case was heard in Hilary Term when parliament was sitting at Westminster. This limitation would be satisfied in 1380, when parliament met at Westminster on 16 January, the Monday after St. Hilary. At that date the charter assailed would have been in force since John of Gaunt's provisional order and the subsequent regrant of the charter, about eighteen months. In January, 1382, also, the parliament, which had met on 16 September, 1381, was still sitting at Westminster, and the charter, though threatened, was remaining in force. But since the indorsement uses the word " tenuz," customarily significative of the first meeting of parliament, the document C should probably be assigned to January, 1380, as the date of its presentation to the crown. The condition of a session at Westminster opening in Hilary Term does not seem to have been again fulfilled until 1390, at which date the charter of 1386 had become a securely established privilege. B then will probably have been draughted about the close of 1379. Document D supplies no further light on this point, and is simply a replication to C, to be dated 1380.

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[34] For a list of the charters see Swinden, pp. 760–767.

If then, documents B and C belong to 1379–1380, to what date is A to be assigned? That it is earlier than B is evident. It is less carefully draughted, and though B transcribes much of it, while altering the order of its clauses, the heads of *gravamina* in A number no more than eight as against eleven in B. It is also to be observed that whereas the complainants in B are anonymous, those in A are the people of Lowestoft who are particularized as the promoters of the suit in 50 Edward III (1376), when the charter was revoked. It was therefore, perhaps redraughted on the frame of the successful petition of 1376. It belongs, on the face of it, to the reign of Richard II and to a moment at which Yarmouth is petitioning for a fresh charter, and it contests in particular the franchises claimed in Kirkley Road. It may be assigned, therefore, to the early part of the year 1378, in April of which year, as has been seen, John of Gaunt and the great council provisionally restored the privileges of Yarmouth in Kirkley Road. It must not be supposed that the successive changes of policy in the matter of Yarmouth's charter were due to nothing more than idle caprice. The monkish historian who was the author of *Chronicon Angliae*, though his bitter prejudice against John of Gaunt attenuates his authority, probably penetrates the secret of that duke's favour to Yarmouth when he says that he refused to listen to the complaints against it "quia minus favit populo quam pecuniae."[35] This was in 1376, when he is represented as having long resisted the revocation of the charter, of which he secured the temporary restoration two years later. On the other hand, the commissioners of 1381, who presented reports hostile to the charter, were careful to add "that the men of Great Yarmouth may sustain and bear towards our lord the king all charges which they did sustain and bear before the granting of the liberties and privileges aforesaid, and maintain the town, although the same liberties and privileges should be revoked."[36] It can readily be understood, that in face of the protests of Yarmouth, the Treasury hesitated at times to accept this conclusion and that in this conflict of fiscal, local, and influential private interests no uniform policy could be for long pursued. Behind the fiscal issues stood those larger ones of the constitution. The history of the Yarmouth charter forms part of the breach between the crown, represented by the council, with the king's uncle at its head, and the house of commons, destined to develop, after a few years, into a fatal struggle between the king himself and the two houses of parliament. In the four documents printed the conflict of legal argument is best summarized in the replication D, "on behalf of the commonalty of Suffolk." It will be observed that Yarmouth endeavoured to obscure the real issue by insisting that at fair time, when the bulk of the herring trade was transacted, no restrictions existed. The complainants, on the other hand, replied that what they asked for was that trade should be free in Kirkley Road at all seasons of the year, while they disavowed any design of setting up a fair there to the commercial injury of that of Yarmouth. The " conflict of laws," whether statutory or prerogatival, carried the disputants back to the middle of Edward III's reign. By a general Act of 1354,[37] no ship could be compelled to enter or remain in any port, and incoming ships were to be free to sell their merchandise on shipboard, without first bringing it to land. Of this concession advantage was taken by the townsmen of Yarmouth, who forestalled the fish at sea and combined to sell to the general consumer at enhanced prices.[38] When, therefore, the Suffolk petitioners cited the statute of 1354, prohibiting the exercise of compulsion upon incoming ships, Yarmouth retorted that the Ordinance of Herring of 1357, by forbidding sales at sea, had practically repealed the earlier act. The petitioners replied that neither statute nor charter could have contemplated such consequences as ensued, viz., that ships laden with perishable cargos, like fish, should suffer loss by being compelled to go from Kirkley Road, where they could have sold them, to Yarmouth at seven leagues' distance, whereby the commonalty suffered loss for the private profit of the Yarmouth dealer.

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[35] *Chronicon Angliae* (ed. E. M. Thompson, 1874), p. 95.

[36] Gillingwater, p. 131.

By the Ordinance of Herring of 1357, the Barons of the Cinque Ports, in confirmation of previous rights, were constituted joint governors with the bailiffs of Yarmouth of the yearly fair. A charter, urged the petitioners, which annulled an agreement approved by the king, ought at least not to have been granted without affording all parties an opportunity to state their objections. The point touches form rather than substance. The ordinance of 1357 distinctly lays down that only " the ships called the Pykers " should be at liberty during the fair to buy fish at Kirkley Road, and that the rest of the fishermen should not sell their herring otherwise within seven miles of Yarmouth, and with these provisions the charter does not appear to conflict. Yarmouth answers with the complaint that in 1376 its charter was " revoked without reply," to which Lowestoft retorts that it was " repealed in full parliament." Whatever the exact significance to be attached to these words, it is at any rate apparent that it was repealed as a consequence of the petitions addressed to the crown during the session of parliament of that year.

In support of its privileges Yarmouth appealed to the ethical code which it represented itself as righteously endeavouring to enforce. For fishermen to sell their fish at Kirkley Road, or elsewhere in the neighbouring sea, was " open forestalling," that is, a defraud of the Yarmouth consumer. The petitioners were too discreet to attempt to justify " forestalling." If such there were, they replied, it could be punished. The real delinquents were the hucksters of Yarmouth who used the compulsion imposed by their charter to raise prices for their own benefit. Controversy followed as to the topographical accessibility of the town. At the worst, contended Yarmouth, goods could be brought in by lighters from Kirkley Road; to which the petitioners replied that lighterage was both dangerous and costly. Similarly, pedlars and others concerned with land-transport were alleged, and denied, to find the town inconvenient of access.

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[37] 28 Ed. III, c. 13.

[38] Ordinance of Herring of 1357, 31 Ed. III, c. 1. The economic situation is well set out by Dr. Cunningham in his *Growth of English Industry and Commerce* (4th ed., 1905) pp. 321-322.

Of these documents D is in a bad condition, part of it being torn away on the lower right side. The result, as the transcript shews, is a number of regrettable *lacunae*.

TAYLORS *v.* BREMBRE

386 The stormy political career and tragic end of Sir Nicholas Brembre, mayor of London in 1377, 1378–79, and 1383–84, are narrated at length by the learned pen of Mr. J. H. Round in the *Dictionary of National Biography*. It is enough, therefore, to say here that he was a partisan of the absolutist policy of Richard II and an enemy to John of Gaunt and Wycliffe. Within the city his aims were oligarchical. He was a member of the wealthy company of the grocers, which numbered among its brethren eight aldermen, one-third of the whole body.[1] With the support of these and other of the great companies he sought " to deprive lesser companies of any voice in the city." The opposed companies ranged themselves as the victualling and non-victualling trades.[2] The former being represented by the grocers, fishmongers, and mercers. Brembre was a politician of the " mailed fist." The Rolls of Parliament for 1386 contain petitions against him from " the folk of the Mercerye of London," from the " Cordwaners," the Founders, the Saddlers, the Painters, the Armourers, the Pinners, the Embroiderers, the Spinners, and the Bladesmiths. Of these the editors of the Rolls note that most of them are " imperfect," and they print only the first two. The petition here printed appears to have been separated from the others, and to have escaped their notice.

The Mercers' petition to the council which they print,[3] complains that the election of Brembre as mayor in 1383 was effected by armed force and the slaughter of his opponents; that he governed oppressively with a high hand, that he burnt records which furnished precedents adverse to his measures. The petition of the "Cordwaners," which belongs to the year 1386,[4] is addressed not to the council only, but to the king and lords generally.[5] While the mercers use English, the cordwainers prefer French.

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[1] Mr. A. B. Beaven in his *Aldermen of the City of London* (1908), i, 359, 360, has shewn how the mistake of Herbert in his *History of the Twelve Great Livery Companies*, attributing sixteen aldermen to the grocers, arose, a mistake followed by Bishop Stubbs (*Const. Hist.*, 2nd ed. 1878), iii, 575, and by Mr. J. H. Round in his article on Brembre.

[2] Ibid., i, liv.

[3] *Rot. Parl.* iii, 225.

[4] During the mayoralty, as it states, of Nicholas Exton, i.e., 1386.

[5] *Rot. Parl.* iii, 226.

They complain that whereas by charter a fair and peaceable election is to be held on the day of St. Edward the King,[6] the mayor, John of Northampton, was in 1383 forcibly ousted from office by Brembre. It may be noted parenthetically that John of Northampton had been alderman of Cordwainer Ward.[7] Brembre's eviction of the mayor had been followed by the beheading of a cordwainer alderman, John Costantyn, and the imprisonment of divers of the brotherhood. After this the forcible election of Brembre took place, as complained of by the grocers. A reign of terror is described as having followed, Brembre's opponents being indicted on trumped up charges of felony.

The petition here printed adds a new charge against Brembre. He had, presumably upon the ground that as mayor he enjoyed a supervisory jurisdiction, seized the charter of the Taylors and Linen Armourers, now known as the Merchant Taylors' Company. The incident has escaped the research of the historian of the company, the late Mr. C. M. Clode, and it may be inferred that no record of it survives amongst the company's muniments. The year 1386, to which this petition belongs, was the last of Brembre's political supremacy in the city of London. On 14 Nov., 1387, he was charged with treason by the Lords Appellant, impeached on the 17 February following, and shortly afterwards executed at Tyburn.

PETITION OF THE HANSARDS

1389 The *Petition of the Hansards* presents a single stage of a prolonged litigation, which may be taken as typical of many that vexed the relations of England and the "Easterlings." Since 1371, there had been a continuous struggle over the trading privileges of the Hanse, against whom great animosity was aroused. In response to popular clamour Richard II had suspended their charter in 1378, but restored it in 1380.[1] Yet the causes of friction remained. Among the complaints of the English was the perennial grievance that foreigners were carrying money instead of merchandise out of the country; that they were keeping inns of their own apart from the free hostelries of the city; that English merchants were received in Hanse towns less favourably than the Hansards in England; that Englishmen and their ships were being arrested and detained in a manner calling for reprisals.[2] At least, it was urged, the Easterlings residing here should be required to give security that Englishmen would be treated as peaceably and reasonably in their countries, as they were received and treated in England. A further grievance that these and other foreigners were engaging in an unfair competition with native traders in the sale of herring lies behind the present petition.

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[6] The translation of St. Edward the Confessor, 13 October.

[7] Beaven, i, 113.

[1] *Cal. Cl. Rolls,* 1 Richard II, p. 66; *Rot. Parl.* iii, 52.

[2] *Rot. Parl.* ii, 306; *Cal. Pat.,* 50 Ed. III, pp. 389, 390, etc.

On the other hand, the Hansards had no lack of grievance against the English. In spite of the renewal of their charter, exempting them from paying more than the old subsidies, certain new customs were being exacted of them. In divers towns, they alleged, they were charged 2 s. on every last of herring; they were not permitted to find wives in England; in innumerable cases on land and sea their merchants were arrested, detained for great lengths of time and their goods seized.[3] Some of the fault found with them, they pointed out, should really be laid against the Prussians, and so they resented the way Englishmen were in the habit of confusing them under the name "Hansers-Pruciers." Besides general complaints, individuals were constantly presenting petitions in regard to arrests, detentions, and losses of goods, for which in some cases the council endeavoured to afford relief. Too often, however, as in the case at hand, the petitions failed because of delays and legal obstacles. Especially when the payment of indemnities was involved, if there was no pressing necessity for giving satisfaction, the government was likely to seek postponements indefinitely.

As to the trade in herring, which resembles the wool trade in its international importance, the competition of foreigners was resented by native fishmongers, because the foreigners under their privileges were exempt from local dues and requirements of the ports. In this, as in other trades, there was a running contest over the question whether foreigners should be permitted to sell by retail or only by gross. On the other hand the common people favoured the trade with foreigners, because it lowered prices and broke into local monopolies. The great demand for herring as an essential food supply and the incessant rise in prices roused the people to strong expression. According to a complaint of the Londoners,[4] the fishmongers of the city were in the habit of seizing the fish, without bargaining or asking leave of the owners, and of then selling it at their own price; after selling the fish, the mongers would pay the former owners as little as they pleased; the strangers dared not complain, for they stood little chance of justice in the local courts controlled by fishmongers. The citizens of London desired that the foreigners might have the king's protection for bringing to the city fresh fish, which they should be permitted to sell retail as well as in gross. Apparently the men of Plymouth, described by the Hansards, were acting with the same motives as those attributed to the fishmongers of London.

The present petition of Conrad Fynk and his fellow merchants was not the beginning of their suit. It is told how they had been to the council before, and had been promised restitution of their goods, if they would first obtain letters from home proving ownership. These letters being now produced, the chancellor and council ordain that the money derived from the sale of the goods in question, £105, be delivered to them. As a receipt for this sum the men afterwards made recognition in the chancery, but by some slip in the proceedings the money was not paid. In 1393, the king wrote a humble and conciliatory letter to the magistrates of Lübeck, reciting the facts of the case and promising restitution of the £105 in accordance with the judgment of the council.[5] Meanwhile, Fynk and Heynson, on charges not known to us, had been arrested and involved in processes before the admiral. In the spirit of conciliation, these processes were suspended and the men released. Whether there was any further litigation on the money and goods in dispute we are not informed.

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[3] *Rot. Parl.* iii, 253; *Cal. Pat.*, 15 Richard II, 518, etc.

[4] *Rot. Parl.* iii, 141.

The claims were not dropped, however, but after years of suspense were taken up through diplomatic channels. After an accumulation of grievances on both sides it was seen at length, in the reign of Henry IV, that a settlement must be reached if the profitable trade of those regions was not to be totally destroyed. Envoys were sent from England to Almain, and from Almain to England, and articles of complaint were formulated on both sides. Among the articles drawn up by the council of Lübeck in 1405, and delivered to the English ambassadors, was the statement of claims arising out of the case of the Hansards in 1389.[6] It is worth quoting in full:

> Also in the year of our Lord, 1389, about the feast of the Purification, men of Plymouth seized before Southampton a ship of Nicholas Timmermann, loaded with 48 (*sic*) lasts of herring, each worth six English pounds at the time, and they sold the said lasts in Weymouth, and having sold them returned only the ship with its equipment to the aforesaid Nicholas Timmermann. Moreover, the said lasts of herring belonged to Conrad Vink, Gherard Glambek, and Gherard Buwman, citizens of Lübeck, and Werner Heynours, citizen of Dortrecht of the duchy of Gueldres, who were then and are still despoiled of the aforesaid goods.

To this article the English ambassadors in their answers made no reply, and the authorities of Lübeck returned to it in their replication.

> Also as to the twentieth article no answer has been given by the ambassadors of England. Wherefore the representatives of Lübeck ask for a clearer statement.

To this the English replied,

> It is necessary that articles be prepared specifying names and cognomens, that speedy justice may be done to the complainants.

After this evasion of the issue nothing more could be done with the case. In the settlement of outstanding claims made with the Eastlanders in 1410, the English agreed to pay the Prussians £10,000, but to the Hansers they gave next to nothing.[7]

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[5] Concessimus de assensu consilii nostri predicti quod dicte centum et quinque libre eisdem mercatoribus integre restituerentur. *French Roll*, 16 Richard II, m. 2, cited in K. Kunz, *Hanseakten aus England* (1891), no. 268, a work containing a series of documents related to the present case.

[6] Ibid., no. 329 and 333.

[7] The latter claims were finally cut down to £153. *Fœdera*, viii, 603. The long drawn negotiations are vividly told in Wylie, *Reign of Henry IV*, iv, ch. 88.

ESTURMY *v.* COURTENAY

1392 The case of *Esturmy v. Courtenay* is for several reasons one of the most notable in the present collection. As a case of violence and oppression, it was the first of a series of trials, such as afterwards pertained to the court of Star Chamber. It was a trial on criminal charges of one of the peers of the realm, for which the council, apart from the house of lords, demonstrated its competence. Different from former cases of the kind, the matter was given a complete hearing by the council. The record too is of unusual fulness, giving a vivid narrative of the proceedings at every step. Although the incident was of political importance, no entry was made of it in the Rolls of Parliament, but in the journal of the council for the 15th year of Richard II the following minute appears:

> On 23 January, 15th year, etc., there were present the chancellor, the treasurer, the bishop of Winchester, the bishop of Durham, the bishop of Chester, the steward, the sub-chamberlain, E. Dalingrugg, and Stury, and the justices and serjeants of the king.
>
> And then it was agreed that letters should be issued to the earl of Devonshire summoning him to come before the council to answer to certain matters that should be explained to him. And this (he should do) on his allegiance and under penalty of whatever he can forfeit to the king, and let him bring with him his servant Robert Yeo under the same penalty on the next Thursday after Candlemas. And let another writ be issued to William Grenville sheriff of Devonshire to come on the same day under the same penalty.[1]

The beginning of the trouble here alluded to lay in a quarrel between Robert Yeo, a retainer of the earl of Devonshire, and William Wyke a tenant of the earl of Huntingdon. During the previous year William Wyke had obtained writs against the earl of Devonshire's retainer, which the latter had treated with contempt. Writs to the sheriff were likewise ineffective because he was in league with the same Robert Yeo. One day Wyke was caught in an ambuscade and horribly murdered at the instigation, it is alleged, of Yeo. Indictments of the persons implicated were obtained before the justices of the peace, who were in turn threatened by the earl. And so the quarrel spread until it involved many of the gentlemen of Devonshire, and was likely to cause a civil war in the neighborhood. It was clearly a case of maintenance, an attempt on the part of the earl to sustain the quarrel of another, coming under the statutes 20 Edw. III, c. 4 and 1 Richard II, c. 7.[2] There was also the offence known as embracery, an attempt to influence a jury corruptly, but this had not as yet been so fully laid down in the statutes.[3] Undoubtedly the case belonged to the council according to an act of parliament, 1 Richard II, which conceded all cases involving " such high personages that right could not be done elsewhere." [4]

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[1] *The King's Council*, 492.

[2] See *Taylor v. Rochester*, p. 2, n. 7.

[3] Mentioned in Statute 20 Ed. III, c. 6; 38 Ed. III, i, c. 12.

When the matter was brought to the attention of the council on 10 January, a commission was issued to arrest Robert Yeo and his servant John Langford.[5] But for the same reasons as before the commission failed of its purpose. The next move was the issue of a subpoena on 23 January to the earl and the sheriff as has already been told. This was effective. The parties came and the trial began on the day set, 8 February. From this point the record itself is the best narrative. The method of trial was an examination into the charges made by William Esturmy, nominally in behalf of the justices of the peace, that the earl had threatened the justices and jurymen with violence. One by one the witnesses, nine in all, were brought in, sworn and questioned in turn as to the words they had heard from the earl. Any divergences of testimony or prevarications under the circumstances would have been readily detected. But they were all, including even the earl's own messenger, in substantial agreement that he had uttered the threats attributed to him. After six days the earl himself was examined in the presence of a score of lords in the council chamber. He could make no defence; although he claimed that his words to the jurors were intended as reproaches rather than threats. He threw himself, therefore, on the king's mercy. The council, consisting at the time of his peers, with unusual severity condemned him to prison until he should pay fine and ransom, at the same time in view of his royal blood and previous good conduct, it commended him to the king's mercy. It may be with excessive leniency, the king granted the earl a full pardon for every crime heretofore perpetrated by him,[6] and a few years later pardoned John Langford who had committed the murder.[7] It may be thought that the earl's submission and humiliation was sufficient punishment for all that he had done, but it is surprising to learn that during the week when the trial was pending, on 12, 14, and 15 February, the earl of Devonshire is recorded as present in the council, the same as other lords, deliberating on the king's business.[8] With such tolerance toward wrongdoing shown by the lords of the council, it is not strange that the statutes of livery and maintenance for the next century failed of enforcement.

But the pardon of the earl of Devonshire was not the last word. On the same day, 15 February, the king took dramatic advantage of the situation to exact from all the lords then present new pledges of loyalty. The incident is described in a minute of the council in the following words:

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[4] *Rot. Parl.* iii, 21.

[5] The commissioners were William Esturmy, James Chudlegh, John Grenville, sheriff of Devon, and Thomas Credy, king's serjeant-at-arms. *Cal. Pat.*, 15 Richard II, 82.

[6] Issued on the same day, 15 February. *Cal. Pat. Rolls*, 24.

[7] This pardon was granted at the instance of the duke of Brittany in 1397. *Cal. Pat.*, 20 Richard II, 145.

[8] The minutes of the council for these days are given in *The King's Council*, 492-494.

And then all the above-named lords gave assurances to the king in the following manner. The three uncles of the king, the prelates, and other lords promised in good faith and assured the king in his hand that they would from this time forth be his loyal subjects and would do nothing privily or openly, by themselves or through their followers, against the king, nor would they (act) one lord against another, or against the people oppressively, except by law. And if peradventure any lord or other man of whatever estate should act to the contrary, (they promised) that all the lords would stand by the king in compelling the refractory one to obey the king and his laws. And in case any lord feels himself aggrieved, he will not take redress by force against the law, but will pursue by common law or complain to the king in order to gain redress and remedy, so that the laws of the realm may be maintained between the king and his lieges of whatever estate. And the king on his part for the complete comfort of his lords and other lieges of his own will and good heart, to cultivate good and complete devotion in his realm, has promised on the word of a king to do no wrong or damage to any lord or other of his lieges for anything that has happened heretofore, for which he may have reason to be moved against them or any one of them. And it is not his intention to restore any of those who have been adjudged in full parliament in his realm or in any place belonging to the crown.[9]

TENANTS OF WINKFIELD *v.* ABINGDON

1393 The petition of the *Tenants of Winkfield v. the Abbey of Abingdon* reveals a local uprising of peasants twelve years after the great revolt. Berkshire was not one of the counties that had taken a leading part in this movement,[1] but now in 1393 the peasants in the manors of Winkfield, Hurst, and Whistley were combining to resist the extortions, as they allege, of the Abbot of Abingdon. First the abbot proceeded against the tenants, complaining that his bondmen were rebelliously withdrawing their services and were confederating unlawfully[2] by oath in assemblies to resist him and his ministers. On this information the king issued a commission of oyer and terminer, dated 14 May, 1393, with power to judge and imprison all who might be convicted.[3]

The tenants did not lack intelligent leaders who inquired into the title of the abbey.[4] In moving the present petition they followed the course that other peasants had taken, attacking the claims of the abbey to be lord of the manor, and declaring themselves to be not bondmen but tenants of the crown domains.[5] Tenants of ancient demesne they could not claim to be. This claim the king caused to be investigated by the inquisition here set forth (p. 83), which supported the contention of the tenants of Winkfield but not those of the neighboring manor of Hurst. As to the merits of the case, we know that in Domesday Book, Winkfield is entered as a tenement of the abbey.[6] But according to a deed of 1348, there had been a later transfer, by which Old Windsor, New Windsor, Winkfield, and Ascot became parcel of the castle and manor of Windsor.[7] Though the abbot enjoyed the principal part of the revenues of the manor, he held these not as lord but by special gift of the king. Henceforth Winkfield is mentioned as the king's manor, but Hurst was confirmed as a tenement of the abbot.[8]

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[9] Ibid., 494.

[1] A few examples are given in *Victoria County Hist.* ii, 190 f.

[2] The Statute 5 Ric. II, i, c. 6, forbade all such assemblages.

[3] *Cal. Pat.* 16 Ric. II, 294.

[4] Saward and Somerton who requested an exemplification from Domesday Book (ibid., 231) are mentioned in our record as being made to suffer for the peasants.

The tenants of Winkfield were encouraged to make a further statement of their grievances (p. 84), but whether they ever obtained redress for their ills is doubtful. Apparently the king was more concerned in preventing any reduction of their services. In 1397, and again in 1398, he sent forth a commission to inquire into the concealment and withdrawal of dues pertaining to his manor of Winkfield and also the oppression of his tenants there.[9] Here the matter is dropped. Another result, due not entirely to the uprisings in Berkshire, was the Statute 17 Rich. II, c. 8, passed in 1394, reciting that unlawful assemblies and riots against the king's peace have occurred, forbidding such assemblies in the future, and requiring sheriffs to suppress them with the full power of the counties.

ATTE WODE *v.* CLIFFORD

1402 The case of *Atte Wode v. Clifford* is another case of maintenance and embracery, illustrating various phases of the extensive general problem. The principal defendant, James Clifford, Esquire, of Gloucestershire, was a turbulent character, who was accustomed to league with other men of the county, with a view to preying upon their weaker neighbours. Their method was to seize an estate at an opportune moment, and then by force and fraud to thwart any legal processes begun against them. Sometimes, as in the present case, by holding a man in durance, they would extort from him enfeoffments to their advantage. Yet while charges of this kind were laid against him, Clifford was an honoured man in the county, serving on the king's commissions and keeping the castle of Caldecote. Among the complaints which he was from time to time called to answer, was one in 1399, that he had entered upon an estate without process of law, ejected the tenants and occupied their lands [1] in a manner very similar to that described in the present case. In the parliament of 1402 there were two petitions of different parties proceeding simultaneously against him. One was of the parson of Frethorn,[2] who alleged that James Clifford, having purchased the manor of Frethorn, laid claim to the church, forcibly ejected the parson and entangled him by all sorts of legal processes in order to dispossess him. Although the defendant had promised under bonds in the chancery to give up the church, still he would not allow the parson to have access. For this offence Clifford was to answer before the council, but of the result nothing further is known. The other petition was that of John atte Wode, or Atwood, with which we are now concerned. Atwood was a lesser landholder of the county, a tenant in the manor of Chedworth, an hereditary estate of the Beauchamps. Unfortunately for Atwood, the death of Thomas Beauchamp earl of Warwick deprived him of his natural defender. Since the manor was at the moment in the king's hand, before it was delivered to the next heir, the case was the more readily heard by the council. Already in the previous year Atwood and his wife had presented a petition to the king, but the only result was a commission of inquisition, followed by another commission, which for reasons presently to be given had failed in its duty.[3] Again they frame a petition addressing it on this occasion to the lords and commons in parliament. Their allegations are that Clifford had been the maintainor of Anselm Guise in persecuting them for the past seven years; that under a false indictment of felony Atwood had been held in prison for three years and a half, while his enemies seized his lands and goods. Although he was afterwards acquitted of the felony, he had not yet recovered his property. The commission of inquisition appointed in the previous year, they allege, had accomplished nothing because the bailiff and jurors of the county were in collusion with the defendants. The commissioners had taken two inquests, the first of which the complainants had challenged, the second they were not permitted to challenge. Under these conditions they affirm that it is impossible to obtain justice in the county and ask for a hearing in parliament. A hearing was granted, but after the first stage of the proceedings parliament, with customary caution, turned the matter over to the council for determination. As the record carefully states, the council then proceeded not on its own authority but "by authority of parliament." The defence had little to say. The examination then was quickly passed over, and the award given unreservedly in favour of the complainants. The lands in question were to be fully restored, and all enfeoffments and transactions affecting the lands made since the ejectment of John Atwood were to be annulled. To ascertain the amount of goods carried off and the damage done, a commission of inquiry was appointed to report at a later day, when the parties were to appear again before the council.

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[5] The same claim had been put forward by the tenants of the abbey of Meaux in 1356, giving rise to a prolonged litigation. *Chron. de Melsa* (Rolls Ser.), iii, 127-142.

For a trial of such a claim see *Year Books* (Selden Soc.), 5 Ed. II, 125-129.

[6] *Exch. Domesday* (1783), i, 59; *Vic. County Hist.* i, 340.

[7] *Anct. Deeds*, i, A 153.

[8] *Cal. Pat.* 19 Ric. II, 669.

[9] Ibid., 21 Ric. II, 310, 433.

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[1] A commission was appointed to enquire into the claim (*Cal. Pat.* 22 Ric. II, 585), but it was ineffective, and in 1401 another commission was appointed to enquire into the same matter (ibid. 2 Hen. IV, 552).

[2] *Rot. Parl.* iii, 574.

[3] The first commission was issued 22 July to William Beauchamp, John Berkeley and John Derhurst, who were to enquire into the matter and certify the king and council (*Cal. Pat.* 2 Hen. IV, 552); the second commission, mentioned in our record, was 26 August to John Berkeley, etc. (ibid., 554).

As often happened, the award of the council was good in itself, but deficient in execution. Part of the lands in question, we know, were restored to John Atwood and his wife.[4] But further restorations were checked by James Clifford, who caused Atwood to be murdered in February, 1405, by a hired assassin.[5] Anselm Guise was also implicated, and the goods of both men were declared forfeited for their not appearing to answer. Clifford was afterwards convicted of the crime in the king's bench, and amerced in £1000. But before the end of the next year, in return for his payment of 200 marks, the king pardoned him of all outlawries and debts.[6] At this price Clifford could afford to continue his depredations.[7] How far the heirs of John Atwood ultimately recovered their lands and goods has not been ascertained.

WYTHUM *v.* MEN OF KAMPEN

1418 The petition of *Hugh de Wythum v. Men of Kampen* illustrates another stage of the perennial problem of indemnities and reprisals. In the treaty made with the Grand Master of the Teutonic Knights in 1410 an attempt had been made to mitigate the evils of reprisals by an agreement, that no subject of the king should be arrested by the Grand Master by reason of injuries committed upon his subjects by Englishmen, and similarly that no subject of the Grand Master should be arrested in England for any such cause. If injuries should be committed, it was agreed that the king or the Grand Master, as the case might be, would give satisfaction; but, if claims should be made, and if after the lapse of six months all satisfaction should be refused, it was allowed that a proportional amount of goods might be taken from the property of Englishmen or Teutons, according to the circumstances.[1] Thus the customary law of reprisals was hardly altered. To settle outstanding claims the sum of 10,000 marks was to be paid by the King of England to the Grand Master as an indemnity. Two-thirds of this sum remained unpaid when Henry V came to the throne, and immediately there were claims and counterclaims for captures at sea to trouble the relations of England and Prussia. The first incident was when the new king, immediately on hearing of his father's death, was sailing from Bordeaux to England and overtook two Prussian hulks off the coast of Brittany. The English sent men to board them and examine their charters, but the strangers showed fight and delivered a regular attack in which Englishmen were killed. The Prussians, however, were captured and brought to Southampton as prizes before the court of admiralty.[2] In the same year there came before the council ambassadors from Prussia seeking a settlement of their outstanding financial claims.[3] They were told to put the matter in writing and were given responsory letters to take back to the Grand Master. When the Prussian ambassadors returned in 1415 they hardly gained a hearing, and were put off by the chancellor from day to day with evasive answers.[4] At the same time the government made some effort to check the depredations that were preventing a concentration of strength upon the war with France. In one case twelve Englishmen were arrested for taking part in a robbery of the goods of a Prussian, to be detained until they should give satisfaction for their share of the 400 marks damages.[5] The statute of Henry IV was reënacted that strangers in England shall be treated in the same manner as denizens of England are treated in foreign parts;[6] this may be regarded as either a threat or a promise. Probably the greatest grievance of the foreigners during these years was caused by the king's seizure of a number of ships from Kampen, Dortrecht and a dozen other foreign towns for his military necessities; the record of a promise of payment to the owners was vacated, we are told, "because nothing was done."[7] Under these conditions it is not surprising to learn that Englishmen like Hugh of Wythum suffered losses in Kampen and other towns. We should like to know whether the claim of Hugh for a reprisal was granted, but after the matter was given to a commission of oyer and terminer it is not heard of again.

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[4] Hugh Waterton restored whatever had come to him. *Close Roll*, 5 Hen. IV, m. 11.

[5] This occurred at Gyldenacre in the parish of St. Martin in Middlesex. *Cal. Pat.* 6 Hen. IV, 511; 8 Hen. IV, 280.

[6] Ibid., 8 Hen. IV, 284.

[7] In 1408 he was pardoned of an outlawry for not appearing in the king's bench to answer in another case of trespass. Ibid., 9 Hen. IV, 407.

[1] *Fœdera*, viii, 663 f.

DUVAL *v.* COUNTESS OF ARUNDEL

1421 The complaint of William Duval a merchant of Rouen, that his cargo of wines had been confiscated by agents of the Countess of Arundel, illustrates a conflict of jurisdiction that was continually arising between the central government and local lordships. It was naturally the interest of local lords to seize storm-tossed vessels, calling them wreck, in spite of the law laid down again and again that there was no wreck, if anyone, a man, a dog or a cat, escaped alive out of the ship.[1] Likewise if a sailor fell out of a ship and drowned, the lord of the place would claim the ship as deodand, although the law was clear that if the vessel was on the sea, it should not be adjudged deodand.[2] Against claims of this character, it became customary in the treaties of the fifteenth century to include articles acknowledging the right of mariners, when driven by storm or rough water, to seek refuge in ports and havens without making payments of any kind. But it was by no means easy for the king to assert the higher law against tenacious local customs. In the present petition it is intimated that the officers of the countess had been unwilling to obey the king's letters. Since the matter was referred to a commission of oyer and terminer the outcome of the case is unknown. But in another case arising in 1422, as soon as it was learned that a ship had been driven into a port of the countess and there stranded, the king promptly sent thither his serjeant at arms to seize everything contained in the ship and keep safely.[3] Whether the ship was a wreck or not, would then be judged in the king's court.

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[2] *Rot. Parl.* iv, 12; Wylie, *Reign of Henry V*, 118.

[3] Nicholas, *Proceedings*, ii, 132.

[4] *Hanserecesse*, vi, 148–150; Wylie, 494 f.

[5] *Cal. Pat.* 1 Hen. V, 64.

[6] Statutes 5 Hen. IV, c. 7, 9; 4 Hen. V, 2, c. 5.

[7] *Cal. Pat.* 5 Hen. V, 115.

[1] Stat. Westm. 1st, 3 Ed. I, c. 4.

DANVERS *v.* BROKET

1433 The case of *Danvers v. Broket* is an incident that occurred at the beginning of the career of Robert Danvers, later a noted justice of common pleas. His biography has been given a place in Foss, *Judges of England*,[1] but it is incomplete at this point. Foss was unacquainted with the case but noticed the following entry in the minutes of the council.

> " On the 10th day (of July) in the 11th year, at Westminster, there was read and passed a certain act signed by the hands of the lords of the council and remaining on file in the office of the privy seal among other memoranda of the same, which begins as follows: Be it remembered[2] etc."

The act in question was the judgment of the council in the case now presented.

The case was over the charge of Danvers that his opponents in a law suit had rased and rewritten a part of a record affecting a claim in dispute. Now the rasing of a record by any official had been made a penal offence, and jurisdiction in such a matter had been definitely given to the council by the Statute 8 Rich. II.[3] Moreover the forging of deeds had been carried to such an extent that people everywhere, it is said, were disturbed over their titles.[4] Other statutes dealt with various aspects of the evil.[5] In the present case, it is proved, the parties instead of altering the record in question, devised the singular scheme of erasing certain letters and then rewriting the same letters, so as to make it appear that an alteration had been made. They would thus not invalidate the record, but hoped to cast discredit on the opposing attorney.

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[2] *Rot. Parl.* ii, 346, 372; iii, 25.

[3] *Cal. Pat.* 10 Hen. V, 443.

[1] IV, 428.

[2] Nicolas, *Proceedings*, iv, 166.

[3] If any judge or clerk be sufficiently convicted before the king and council, by the manner and form which to the same king and council seem reasonable, within two years of such default, he shall be punished by fine and ransom at the king's will and satisfy the injured party. Stat. 8 Ric. II, c. 4.

[4] Preamble, Stat. 1 Hen. V, c. 3; also 7 Hen. V, c. 2.

[5] Stat. 14 Ed. III lays down that a record may be challenged and amended at

Danvers had as yet no influence at court, that he was permitted to come without any petition and lay his grievance before a full meeting of the council. The rasure of a record indeed was a matter of public interest which the council desired to hear. After the opening statement of Danvers, and an exhibition of transcripts of the record, two clerks of the chancery were examined, who pointed to William Broket, a clerk of the exchequer as the probable culprit. Complete proof of his guilt was then presented by Danvers who had skillfully drawn Broket into an incriminating correspondence. The letters were now produced in court. Faced with the evidence, Broket broke down and confessed that at the instigation of his client John Lydyard he had rased the record just as his accuser had said.

For this cause Broket was forthwith removed from his place in the exchequer and disqualified from ever serving in any of the king's courts. In declaring Danvers innocent the council agreed that for his complete exonoration a record of the case should be enrolled in the chancery. It is not unlikely that the skill displayed at this time by the young lawyer was a recommendation for his subsequent employment in the king's service.

NEVILLE *v.* NEVILLE

1435 The memorandum entitled *Neville v. Neville* is a fragment pertaining to the long feud that was arising between two branches of the house of Neville. This had its origin in the two successive marriages contracted by Ralph Neville, first earl of Westmoreland (d. 1425),[1] the first marriage having been with Margaret Stafford, and the second, a more pretentious alliance, with Joan Beaufort of royal blood. The father laboured indefatigably to found the fortunes of the children of his second family, in preference to the first, by a series of great matches and by a diversion of a good half of the Neville patrimony.[2] So that the larger share of the landed estates and political influence of the Nevilles ultimately fell to the descendants of Joan, herein mentioned as the countess of Westmoreland. There was plenty of ground for contention between the two sides, but the immediate object of dispute was the late earl's will disposing of his personal property.[3] The will was brought before the exchequer, but its execution was in suspense by

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any time, but that no process shall be annulled or discontinued by such a challenge. The interpretation of this act gave rise to such diversity of opinion that it was reaffirmed in Stat. 9 Hen. V, i, c. 4 and 4 Hen. VI, c. 3, with the addition that the justices before whom a plea was pending might amend a record either before or after judgment. Stat. 8 Hen. VI, c. 12 lays down that no judgment, once given, shall be reversed on the ground of an error in any record.

[1] *Dict. Nat. Biog.*

[2] Compare the estate left by the first earl with that of the second earl. *Cal. Inq. p. m.* iv, 103, 419.

[3] *Wills and Inventories* (Surtees Soc. 1835), i, 68 f.

reason of an appeal made by the countess on the ground of error. Her petition in the parliament of 1430–31 was referred to the council, but the council doubted its power. A second petition in 1433 directed the parties to go before the council and definitely gave the council power to reverse the judgment of the exchequer.[4] The council did not welcome the task. From 20 January to 25 February, 1434, attorneys for the countess sought from day to day to obtain a hearing, and at length were told that "because of arduous business affecting the king and the realm" the matter could not be examined then, and that the parties might come again within three weeks from the following Easter.[5] Apparently there was another postponement, before the council gave any attention to the matter. Then on 4 February, 1435, there was proposed the expedient of a board of arbitrators, of whom each side should choose three lords and two justices; and if these should not be able to end the matter, it should be reported back to the council.[6] At this point an historian of the family is disposed to believe that the feud took a warlike turn and proceeded by methods of slaughter and destruction.[7] But chronicles and documents as yet say nothing of the sort, and the record before us mentions only "fear of suits, unlawful entries and other labours that were likely to be done." A further postponement of the strife was effected by the incident disclosed in the present memorandum. When the king in 1435 required the services of Salisbury and Fauconberg in the war, their mother the countess consented to their departure only on condition that the earl of Westmoreland should give surety to forbear suits and other proceedings during the specified time, as a sort of moratorium essentially similar to the war moratoria of today. This the earl was induced to do and gave a recognizance of £4000. There was no breach of the peace apparently during the absence of Salisbury and Fauconberg, nor during the three years following. In 1438 the council took the matter in hand again, endeavouring to bring the earl of Westmoreland and the countess to an agreement.[8] But the judicial fairness of the council was manifestly open to question, since the earl of Salisbury had become an active member of the council and had gained a marked political ascendency.[9] Before the end of the year the inevitable outbreak occurred. According to a signed letter of the king to his chancellor, dated 28 December, the parties "each against the other by manner of war and insurrection have late assembled great routs and companies upon the field and done furthermore great and horrible offences as well in slaughter and destruction of our people as otherwise."[10] The king commands that all the parties be called to answer as law and reason require. But one searches in vain for any effective treatment of the matter at the hands of the council.

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[4] *Rot. Parl.* iv, 469.

[5] Nicolas, *Proceedings*, iv, 189.

[6] Ibid., 289.

[7] D. Rowlands, *Hist. of the Family of Nevill* (1830), 36.

[8] Nicolas, v, 90, 92, 282, 283.

[9] Ibid., 71 f. He was granted as a member of the council an annuity of £100. *Cal. Pat.* 17 Hen. VI, 289.

[10] Given in full in Rowlands, 36. The

CONFESSION AND EXAMINATION OF JOHN FORDE

1439 The *Examination of John Forde* in 1439 is an example of the zeal of the council in enforcing the regulations of the wool trade. These regulations were infinitely specific as to packing, weighing, sealing, cocketing, etc., in proportion to the ingenious methods of merchants to evade and defraud the customs. One of the common devices of illicit traders, colloquially known as " good packing," was to mix or wind in better wool with cheaper wool, in order to pay the lower custom duties. This offence was dealt with in the Statute 8 Henry VI, c. 22, to the effect that no wool-packer should make within the realm aught but good and due packing, or make any inwinding within the fleece of wools at the rolling up of the wool, etc. The present case reveals a variation of this practice, not noticed before, in the device of winding the raw wool in the folds of woolen cloth. There was every temptation to do this, for the statutes requiring the wool of the realm to be exported only to Calais,[1] had been made increasingly stringent, while licenses to export wool to other places were difficult to get. On the other hand the exportation of woolen cloth, noticed from the beginning of the fifteenth century, was liberally encouraged and exempted from the limitations placed on raw wool.[2] The statutes of Edward IV were to go further in restricting the exportation of wool in favour of that of cloth. The revelations of John Forde stimulated the government to search packages of cloth for inwindings of wool and enabled it to detect others in the same illicit practices. A few months later John Cok another mercer of London was found out and arrested for packing wool with his cloth for shipment.[3] Different from Forde, he was pardoned on his petition that he had been instigated by evil-doers who had thus attempted to destroy him, but the king confiscated the wool and the cloth. A series of commissions to Lord Cromwell, Robert Large, William Fallan, the examiners in the present case, to search for the " forcing and clacking " and other illegal practices in the wool trade apparently had a salutary effect.[4]

THE BEDFORD RIOT

1439 The *Examination into the Bedford Riot* brings us to an episode presaging the worst days of the Paston Letters. In a manner characteristic of the fifteenth century, it sprang from a dissension between two of the leading lords of Bedfordshire. One was Lord Grey of Ruthin,[1] of an ancient family with an accumulation of estates in Bedfordshire, Buckinghamshire, and

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letter is dated 28 December at Kenilworth, without the year, but by comparison with letters of the great seal, this may be inferred to be 1438.

[1] Stat. 2 Hen. VI, c. 25; 11 Hen. VI, c. 14; 14 Hen. VI, c. 5, etc.

[2] *Rot. Parl.* iii, 501; iv, 377.

[3] *Cal. Pat.* 17 Hen. VI, 298.

[4] Ibid., 315, 373, 417, 439, etc.

[1] Dugdale, *Baronage*, i, 716.

Wales. He had served in the wars and in the council of Henry IV and Henry V, but he was now an aged man and his political influence was visibly waning. The other was Sir John Cornwall, a new man, who had risen rapidly from obscure origin to be next to Lord Grey the leading landlord of the county. He had lately been created a baron under the title Lord Fanhope and was a member of the king's council. Whether the root of the trouble lay in personal jealousy or the quarrels of their respective retainers and allies, we are not informed. At all events there came a clash in the spring of 1437 over the appointment of four justices, apart from the regular justices of the peace, to inquire into felonies, insurrections, trespasses, etc., occurring within the county.[2] Although two of the justices were friends of Lord Fanhope, it is not clear that his lordship had anything to do with their appointment. Lord Grey, however, suspected that they were acting in the interests of his rival. When the commissioners then came to Silsoe and endeavored to hold session in front of the church, Lord Grey came up with 50 or 60 armed men, and begged to know why they had chosen his church as the place of their session.[3] They must have chosen it, he said, "in despite of him," yet he would not obstruct the session but wait to see what they meant to do. His ally John Enderby, who had come with 100 or 120 men, said that the commission had been stolen and was intended to indict the tenants of Lord Grey. On the other hand Lord Fanhope, who was on hand with 60 men, affected suspicion of the commission because it was holding session in the town of his rival. While the armed forces of both sides were increasing, through the mediation of Sir Thomas Wauton it was agreed that Lord Fanhope with his men should move to one side of the town and Lord Grey to the other. John Enderby as justice of the peace in the county promised to hold sessions of the peace, and the commissioners because of the danger in proceeding further decided to adjourn their sessions. These facts were elicited in an examination before the council at Westminster, where for several days the commissioners were questioned on the affair.[4] But as happened too frequently in events of this kind, no action so far as we know was taken either by the council or by the justices of the peace.

On 12 January, 1439, there was a similar occurrence at the town of Bedford, which came still nearer to a warlike outbreak. During the interval of the past year and a half it appears that Lord Fanhope had gained an advantage by excluding his rivals, particularly John Enderby and Thomas Wauton, from appointment as justices of the peace.[5] They retaliated by securing a special commission [6] issued to Sir Thomas Wauton, John Enderby, John Fitz, and Harry Etwell, the justices named in the record now at hand. Then there came a collision between the justices of this commission and the regular justices of the peace represented by Lord Fanhope, William Ludsop, and William Peck. On this occasion Lord Grey, who was near the end of his life, took no active part. The justices of the special commission were about to begin their session in the town hall of Bedford, when Lord Fanhope with 40 or 60 armed men came into the hall, and after a brief greeting sat down on a bench at the end of the room. There was an attempt to bring the justices of both commissions together, but between the two sides there was an exchange of rudeness, arguments, threats, and words of defiance, until the hall was filled with clamour. Lord Fanhope leaped upon the board used as a table and drew his dagger. Enderby also held a dagger until a sword was handed to him. There were hundreds of armed men in the neighbourhood. Yet in all this tumult, or riot as it was called, no one was injured, not even a blow was struck by either side against the other.[7]

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[2] This commission, dated 16 March, 1437, was issued to William Ludsop, John Fitz, Henry of Lye and William Pekke (*Cal. Pat.* 15 Hen. VI, 87). Fitz and Pekke are involved in the affair of 1439.

[3] The incident has been noticed in *Victoria County Hist.* ii, 36.

[4] Nicolas, *Proceedings*, v, 35-9, 57-9.

[5] The list of justices of the peace is in *Cal. Pat. Rolls*, 578.

[6] No enrolment of this commission has been found; its existence is inferred from what follows.

Wauton and his fellows immediately carried out their threat of reporting the matter to the king and council. Their certification,[8] which is mentioned in our record, is unfortunately wanting. Not to be outdone, Lord Fanhope likewise made a certification, accusing his opponents of breaking up the session of the peace which he had endeavoured to hold. And so the council took up the matter on 10 February, in the proceedings now before us. The examination before the lords in the star chamber was the most complete and searching that has yet been recorded. On the facts alleged in the certification of the justices as many as thirteen articles of inquiry were drawn up. The witnesses, including the four justices of the first commission and the undersheriff of Bedfordshire, were questioned singly and their answers written down. When their answers and admissions were afterwards read and compared, it was found that Wauton and Enderby had disagreed over the form of the certification. There was a discrepancy in the testimony as to the number of Lord Fanhope's followers. The justices admitted that they had not announced to his lordship their intention of opening the session and had hardly shown him due reverence. Much was made of the question whether Fanhope held his dagger downward or forward, whether his attitude and motions were threatening, and whether he had incited the tumult or sought to quell it. Fitz saw him draw no dagger and Enderby admitted having drawn his own. They all acknowledged that his lordship had sought to quell the riot, that he had protected them in going to their lodging, and had hospitably given them drink. When the record was finally read in the presence of many lords of the council, it was their opinion that, while they could not legally deny the certification, the conduct of Lord Fanhope and his followers was not without excuse, and that the justices had most likely been actuated by motives of malice and anger. Thus they reported to the king, who commanded the chancellor to issue a patent of pardon and release for Lord Fanhope and all his followers. For a record which his lordship desired, these letters dated 7 March with an abstract of the case were exemplified on the Patent Roll.[9]

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[7] These facts were elicited in the examination, p. 104.

[8] The Statute 13 Hen. IV, c. 7, on riots, had declared that in default of the justices of the peace, certification should be made to the king and council.

But the vindication of Lord Fanhope was not satisfactory to his opponents, who then took steps toward getting a similar vindication for themselves. By letters patent dated 30 May, Wauton and his fellows, together with a host of men who had participated on their side in the riot of 12 January, were pardoned and released of all fines, sureties and other obligations in regard to the matter.[10] In the exact words used in the release of Lord Fanhope, it was declared that the certification against them had been made of mere malice. Thus in the midst of feuds and strifes, that were leading directly toward civil war, the king and council temporized. With all the solemnities of legal procedure, they sought to do justice neither to one side nor the other. They did not even support one party against the other; but without any intelligent policy they released one band of rioters and then the other, for no other gain than the paltry fees paid into the chancery. It is not surprising to learn that judicial sessions in Bedfordshire were soon again disturbed.[11]

HEYRON *v.* PROUTE

1460–63 The suit of *Heyron v. Proute*, 1460–63, is a single stage of a litigation that was afterwards carried from court to court during a period of twenty years. From a passage in the chronicles of Fabyan [1] we learn that it originated in a mysterious loan of £18,000, which the staplers of Calais advanced to the Yorkist lords while they were making the town their stronghold in 1459–60. When the staplers in 1462 approached Edward IV for a return of the money, they were answered by the council that the loan had never come to the king's knowledge, but belonged of right to the earl of Wiltshire the treasurer lately beheaded for treason. Fabyan says that it was this Richard Heyron, described as "of pregnant wit and of good manner of speech," who brought forward at this time the claims of the staplers. But Heyron was speaking for none but himself, for the present record shows that already in the reign of Henry VI he had turned against his fellow staplers, and was seeking by devious courses to gain satisfaction and, as events prove, to wreak vengeance on his enemies.

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[9] Several of the facts just given are derived from this source. *Cal. Pat. Rolls*, 246.

[10] Ibid., 282.

[11] Nicolas, v, 192.

[1] *New Chronicles of England and France* (1811), 635, 652.

The case, though it was never completed, is not without interest in several particulars. It offers an illustration, not frequent in the records of the council, of the method of written pleadings in the form of bill, answer, replication, and rejoinder. It also contains in these pleadings the most intimate description of the wool trade in these parts that we have prior to the Cely Papers.[2] How the wool was purchased extensively on credit, how it was bought up in the counties of England, then brought to London and cocketed, how it was received and distributed at Calais are vividly set forth in the complaint of the merchant. But on the merits of the suit we can say little more, for proofs are entirely lacking. To the charges made by Heyron the defendants at first demurred, then denied them entirely. After these lengthy pleadings Heyron, evidently feeling that the court was against him, suddenly discontinued the suit. With extraordinary ingenuity he afterwards found a way of impleading certain of his opponents in the court of the duke of Burgundy.[3] At an opportune moment he caused them to be arrested in the town of Bruges and tried for the injuries done to him at Calais. The process is said to have been long continued in that court, and was afterwards appealed to the king of France, as overlord of Flanders, in the Parliament of Paris. Here it was dismissed, as we afterwards learn, at the solicitation of the king of England. Fearing that Heyron would implead them still further in foreign courts, the staplers succeeded in bringing the matter in 1478 before the king and parliament, by whom it was ordained that proclamations should be made ordering Heyron to desist in these proceedings. In spite of these inhibitions, Heyron found one other resort in the court of Rome, where on charges of ill contract he obtained in 1480, first a penal admonition and then an annullatory bull against the Society of the Staplers. These sentences the staplers afterwards induced the pope to revoke.

The last stage of the affair was an argument upon the question of Heyron's right as an English subject to sue in foreign courts and of the jurisdiction of the king's court in the matter. In 1480, Heyron returned to England under letters of protection with the avowed purpose of suing in the king's court again. For the better safety of his person he sought sanctuary in Westminster Abbey. Here he was called upon to defend his conduct in having impleaded the king's subjects in foreign courts. Our knowledge of these events is based entirely on a record of the council, in which it answers at length the pleadings of Heyron.[4] The points in Heyron's plea were (1) that under the treaties of intercourse with Burgundy, he was permitted to sue in the ducal court, (2) that he had resorted to

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[2] *Royal Hist. Soc.* (Camden Series, 1900).

[3] The following facts are set forth in the proceedings of 1478. *Rot. Parl.* vi, 182; *Cal. Pat.* 17 Ed. IV, 67.

[4] For the following remarkable record, I am indebted to Miss Cora L. Scofield, who has discovered it in the preparation of her forthcoming work on *The Reign of Edward IV*. It is found in *Treaty Roll*, 21 Ed. IV, mm. 1-3, given below in Appendix I, pp. 121–129.

Rome because he could not get justice elsewhere, and (3) that the king's letters ordering him to desist were invalid, because he himself had letters of license. In answer to these points in detail the council argued, (1) that it was a case of jurisdiction over persons rather than territory. The sole judge of a dispute under the treaties of intercourse was the king, from whom the law, so far as it was now in question, had emanated. Moreover, according to the treaties no jurisdiction over English subjects had been conceded, except in maritime captures.[5] (2) As to the appeal to Rome, Heyron had disobeyed the king's command to desist, as expressed by letters patent and by the procurator at Rome. Moreover, the papal sentence settled nothing because it had been revoked. (3) As to the genuineness of the king's letters issued at the instance of the staplers, these were wholly valid, while the validity of the letters licensing Heyron's appeals was open to doubt. No such letters had been issued under the great seal or under the privy seal, and, if they had been issued at all, they must have been under the signet ring. But this could not be ascertained, because the king's secretary, the keeper of the signet at the time, was dead. If there were any such letters in existence, the king, citing the recent action of the pope, now revoked them. The final declaration of the council was that the "profane and pecuniary case" of Richard Heyron belonged to the king's court and no other, and here he might have audience and justice. Heyron died soon after in sanctuary, we are told, without having recovered any of his losses and being deeply in debt to many persons.[6]

TENANTS *v.* WAYNFLETE

1462 The brief record entitled *Tenants v. Waynflete* is to be taken as supplementary to a memorandum in the Rolls of Parliament for the previous year.[1] It represents the last stage of a conflict that had been going on for a year or more in the manors of Hampshire. The first that we hear of the affair is a complaint of the bishop of Winchester that his bondmen of East Meon had thrown off their allegiance. He invoked the Statute 5 Rich. II against such insurrections for his protection. A commission of oyer and terminer, dated 1 August, 1461, was granted,[2] but so far as can be seen it effected nothing, unless it was to excite the tenants to greater violence. The next that we hear is that the tenants have seized the bishop as if to prevent his escape.[3] It was when Edward IV was making his first progress through the country, as he came into Hampshire in the month of August, that the tenants of East Meon and elsewhere "in great multitude and number" came to the king complaining of certain services, customs, and dues that the bishop and his agents were attempting to exact.[4] The king, not having the leisure then to examine into the matter, charged the peasants to continue their services and payments as before, and if they felt themselves injured to send deputies to the next parliament when they should be heard and have answer according to reason. At the same time, according to one account, the king rescued the bishop from the hands of his captors and arrested their ringleaders.[5] On their coming to parliament, which met 4 November, the claims of the peasants were referred to a body of lawyers, three serjeants, and the king's attorney, who were to examine into the matter with the aid of the learned counsel of both sides and report to the king and the house of lords. After long labour a copious detail of particulars was given to the lords on 14 December. The grievances of the peasants, it now appears, were

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[5] *Fœdera*, xi, 610; xii, 72.

[6] Fabyan, 653.

[1] *Rot. Parl.* v, 475.

[2] Dated 1 August, 1461. *Cal. Pat.* 1 Ed. IV, 38.

[3] *Brief Latin Chron.* (Camden Soc., 1880), 174.

[4] These events are recited in the memorandum of the Parliament Roll just cited.

(1) The exaction of certain customs of hens and corn under the name of Shirshette, otherwise known as Church Scot.

(2) The exaction of a sum of money claimed at two law days of the year called Tithing penny or Totting penny.

(3) The levy of a sum called custom pannage[6] for swine in East Meon.

(4) That the court of the bishop had been held at the parsonage of East Meon and not within the manor.

(5) As to their status, the tenants claim to be freeholders, not copyholders, and their land charter land, not copy land.

These claims were denied by the bishop entirely. The lords took until the next morning to deliberate, when it was intended that every man should be asked for his advice. The proofs laid before them consisted of records of the manor, particularly court rolls and account books called Pipes[7] of as many as fifteen bishops, also records of the chancery and the exchequer, by which it was determined after long and serious debate that the claims of the bishop were fully sustained and that the tenants had failed to show sufficient cause for exemption. The decree was passed by the lords on 16 December, in the presence of the justices of both benches, and assented to by the king.

But the matter did not end here. Whether the tenants showed new signs of rebellion, we do not know. But in the month of May they were complaining again that the bishop had thrown certain of their neighbours into prison. Both parties were told to send deputies before the king's council. The tenants came, but satisfied that the court was against them, departed and lost their case by default. After the writs of proclamation determined, as is here told, on 3 July, no further attempts, so far as is known, were made by the tenants of East Meon.

The same is given in R. Chandler, *Life of Waynflete* (1811), App. 348.

[5] *Latin Chron.*, 174.

[6] A payment understood to be exacted of villeins only. See *Tenants of Winkfield v. Abingdon*, p. 84, n.

[7] Now in the custody of the Ecclesiastical Commission.

CASES BEFORE THE KING'S COUNCIL

CASES BEFORE THE KING'S COUNCIL

BOISTARD v. CUMBWELL[1]

1243 Placita coram Consilio Domini Regis a die sancti Iohannis Baptiste[2] in tres septimanas Anno Regni Henrici filii Regis Ioannis 27°.

Assisa si Philippus de Cumbwell dissaisivit Walterum Boistard[3] de tribus Carrucatis[4] terre in Chemerswell.[5] Defendens dicit quod ne vnquam seisitus nec probat quia Ioannes frater eius tenuit de eo in Capite tenementum illud vt in Feodo. Et inde obiit sine prole. Et post ipse seisivit in manus suas quousque Rectus heres veniret ad faciendum servicium debitum. Et quod Rogerus qui est ad fidem Regis Frauncie[6] est Rectus heres et primogenitus qui post venit de partibus transmarinis et se intrusit sed non permisit sesinam habere quia non intelligebat ipsum aliquid ius habere cum fratrem primogenitum haberet. Walterus dicit quod petit dicere quicquid vult quia dicit quod fuit in pacifica seisina per multos dies. Et nullus alius heres apparet. Et Philippus ipsum iniuste eiecit. Et de hoc &c. Iur(ata) dicit quod predictus Ioannes obiit sine prole sed habuit fratrem Rogerum nomine maioris etatis quam predictus Walterus qui est in Normania vt credunt et non est ad fidem Regis sed nunquam eum viderunt nec vnquam in partes istas venit ad clamorem apponere nec sciunt vtrum sit vivus aut mortuus. Et defuncto Ioanne defendens vt dominus Capitalis pro se in seisinam salvo iure &c. Post Walterus Rediens a partibus transmarinis posuit se in seisinam per Novem dies, quo audito Philippus illum eiecit. Et petit Iudicium Curie ad discernendum si talis seisina Walteri et eiectio Philippi fuit disseisinam.[7] Post quia testatur quod Walterus habet fratrem antenatum in Normannia, et habet ibi terram, et fecit homagium Episcopo Baiocensi,[8] et ipse Episcopus Regi Frauncie;[9] de Consilio Curie terra teneatur in manu Regis usque Rex aliud &c. Et Philippo fecit dande xv marce.[10] Et dies datus est ei ad Iudicium suum audiendum coram

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[1] Lincoln's Inn MSS. Hale Collection, 16. See J. Hunter "Three Catalogues" (1838), p. 286. This case is not in *Placitorum Abbreviatio,* nor in the *Rotuli Parliamentorum,* nor is it to be found in the *Curia Regis Roll* T. T. 27 Hen. III, nor in Roll 125, now corresponding to the former Roll 17.

[2] 24 June, 1243.

[3] A Walter Boystard was lord of the manor of Lethenborough, Bucks, perhaps in the thirteenth century. See *The Genealogist,* N.S. (1886) III, 137.

[4] The plough-land was a variable area in different localities, depending upon the quality of the soil, the population &c. In the Domesday of Inclosures (1897) Mr. Leadam has shewn that in the Midland and Southern counties of which we have returns it averaged rather more than nine acres in 1517 (ib. I. 54).

[5] Chiswell Farm in Cumnor, Berks; *see Close Rolls,* 1242–1247, p. 122; *Cal. of Pat. Rolls,* 1232–1247, p. 391.

[6] This raises the question of allegiance, on account of which, doubtless, the case was referred to the council. Coke, citing Bracton, lib. 2 fo. 80a., says "Every free-

CASES BEFORE THE KING'S COUNCIL

BOISTARD *v.* CUMBWELL[1]

1243 Pleas before the Council of the Lord the King for three weeks from St. John the Baptist's Day[2] in the twenty-seventh year of the reign of King Henry son of King John.

An assize whether Philip of Cumbwell has disseised Walter Boistard[3] of three carucates[4] of land in Chemerswell.[5] Defendant says that Walter never was seised nor does he show proof of seisin, because John his brother held that holding of him, Philip, in chief as in fee, and then died without issue. And afterwards he himself took seisin of it into his hands until the right heir should come to render due service, and he says that Roger who is in fealty to the king of France[6] is right heir and eldest son, and that he afterwards came from the parts beyond the sea and intruded himself, but he, defendant, did not permit him to have seisin because he did not understand that he had any right, as having an elder brother. Walter says that he asks leave to say what he desires to say, that is, that he was in peaceable seisin during many days, and no other appears as heir. And Philip has ejected him unjustly. And touching this, &c. the jury say that the aforesaid John died without issue, but he had a brother named Roger older than the aforesaid Walter, that Roger is, as they believe, in Normandy and not in fealty to the king, but they have never seen him, nor has he ever come into these parts to put up his claim nor do they know whether he be alive or dead, and that after John's death the defendant as chief lord took seisin for himself, saving the right of the true heir &c. Afterwards Walter, returning from the parts beyond the sea, put himself in seisin during nine days. Philip upon hearing this ejected him, and he asks the judgment of the court to decide if such seisin by Walter and ejection by Philip were disseisin. Afterwards because he gives evidence that Walter has an elder brother in Normandy and has land there and has done homage to the bishop of Bayeux,[8] and the bishop himself to the king of France,[9] by counsel of the court the land is to be held in the king's hand until the king otherwise (determine). And the court caused Philip to be given fifteen marks.[10] And day was given him for hearing his judgment before the

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holder, except tenant in frankalmoign, shall do fealty." 1 Inst. 67b.

[7] Probably a blunder of Hale's somewhat careless transcriber for *disseisina*.

[8] Guido, Bishop of Bayeux 1241–1260. P. B. Gams, *Series Episcoporum* (1873), p. 507. "There is great diversitie between the doing of fealty and of homage; for homage can not be done to any but to the lord himself, but the steward of the lord's court or bailife may take fealty." Littleton, § 92; Coke, 68a.

[9] Louis IX, King, 1226–70.

[10] £10.

Consilio Regis apud Westmonasterium. Eo die apparuerunt predicti Walterus et Philippus et propter absenciam domini Archiepiscopi[11] datus est ei dies &c.

Rot. 17 Scedula.

TAYLOR *v.* ROCHESTER[1]

1292 Ceo est la grant destruction e la grant Outrage ke fet est a Huwe le Tayllur[2] de ses byens e de ses chateus a Hulprington[3] e a Wamberge[4] en le Conte de Wiltesyre, par le comandement sire Salomon de Roucestre[5] adonk Justyce errant en meyme le Conte,[6] a tort e acontre les estatuz le Rey.[7] E pur ceo a tort kar par la ou Johan de Tauy[8] par le meyntenement le deuandyt Sire Salomon suwyt un Bi[lle] deuers le deuantdyt Huwe le Tayllur fausement de fere lever de ses terres e de ses chateus[9] quarante lyures de les Cynkante lyures auant dyz.[10] Prymes furent totes les bestes de les charuwes[11] Huwe pryses par Sire Johan de Wotton[12] adonk visconte de Wiltes[13] par la meyn Thomas de Bouedone[14] soen bayllyf le dymeyne procheyn apres la feste de la Purification nostre dame le an du Regne le Rey Edward dysetyme.[15] E vendyrent touz les boefs de les charuwes deynz les oyt Jours apres la pryse et contre les estatuz nostre Segnur le Rey. E par la reson ke il vendirent les bestes de ses charuwes tant come il y auoynt autre byens asez a la muntance de la dette demandee.[16] E trestuz les autres byens Huwe furent destruyt e a grant meschief venduz, par le comandement sire Salomon de Roucestre e par la meyn Thomas de Bouedone Bayllyf le deuantdyt sire Johan de Wotton adonk visconte de Wiltesire. Cest asauer a Hulprinton.

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[11] This must refer to Walter de Grey, chancellor in 1205, and archbishop of York in 1215–1255. The see of Canterbury had been vacant since the death of Edmund Rich in 1240. Boniface of Savoy, who had been nominated to it by Henry III in 1241, was not confirmed by Innocent IV till the end of 1243 and did not visit England till 1244. When, therefore, Henry III sailed for France in 1242 he left the archbishop of York in charge of the kingdom, and Grey was styled "the king's chief justiciar." As such, he would naturally preside at the hearing of this case by the council.

[1] *Parliamentary Proceedings* (Chancery), file 2, no. 20.

[2] The complainant's name had, it may be inferred from the goods seized and sold, become a surname dissociated from the handicraft.

[3] Hilperton; in Domesday, Helprintone, in Melksham Hundred, West Wilts, one mile N. E. of Trowbridge.

[4] Wanborough; in Domesday, Wemberge, in Kingsbridge Hundred, N. E. Wilts, three miles S. S. E. of Swindon.

[5] See Introd., p. xlix.

[6] This fact, that he held a circuit in Wiltshire, does not appear to have been hitherto recorded of him. See *Dict. Nat. Biog.* sub Rochester.

[7] Maintenance is defined by Coke as "an unlawful upholding of the demandant or plaintiff, tenant or defendant in a cause depending in suit, by word, writing, countenance, or deed." He lays it down (2 Inst. 207) that it was against the Common Law as being *malum in se*, and it does not appear to have been a statutory offence till the Statute of Westminster the First (1275), which (cap. 25) prescribes that "no officer of the king by themselves, nor by other, shall maintain pleas, suits, or matters hanging in the king's courts, for lands, tenements, or other things, for to have part or profit thereof by covenant made between them, and he that doth

king's council at Westminster. On which day the aforesaid Walter and Philip appeared and by reason of the absence of the lord archbishop[11] day was given him &c.

TAYLOR *v.* ROCHESTER[1]

1292 This is the great destruction and the great outrage that is done to Hugh Taylor[2] of his goods and of his chattels at Hilperton[3] and at Wanborough[4] in the county of Wiltshire by the command of Sir Solomon Rochester[5] then justice in eyre in the same county[6] wrongfully and against the statutes of the king.[7] And hereby it is wrongful, for whereas John of Tauy[8] by the maintenance of the aforesaid Sir Solomon sued a bill against the aforesaid Hugh Taylor falsely to cause to be levied of his lands and of his chattels[9] forty pounds of the fifty pounds above said,[10] in the first place all the beasts of plough[11] of Hugh were taken by Sir John Wotton[12] then sheriff of Wilts[13] by the hand of Thomas Bowdon[14] his bailiff the morrow next after the feast of the Purification of our Lady the seventeenth year of the reign of the king Edward.[15] And they sold all the plough-oxen within the eight days after the seizure and contrary to the statutes of our lord the king.[16] And by reason that they sold the plough-beasts while there were other goods sufficient to the amount of the debt sued for and all the other goods of Hugh were destroyed and sold at great loss by the command of Sir Solomon Rochester and by the hand of Thomas Bowdon bailiff of the aforesaid Sir John Wotton then sheriff of Wiltshire that is to wit at Hilperton.

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shall be punished at the king's pleasure." This, as Coke remarks, is specifically directed against champerty, but "every champerty is maintenance," and it is presumably to this statute that the complainant is referring.

[8] The name of two villages in Devonshire.

[9] "When judgment has been given for a debt, the sheriff will be directed to cause the sum that is needful to be made (*fieri facias*) out of the goods and chattels of the defendant, or levied (*levari facias*) out of his goods and the fruits of his land."

Pollock and Maitland, *Hist. Eng. Law*, (1895), ii, 594.

[10] Evidence that these papers are supplemental to a bill of complaint which has disappeared.

[11] This was clearly against the Statute of Westminster the Second, c. 18 (1285), which provided that "the sheriff shall deliver to him (the creditor) all the chattels of the debtor, saving only his oxen and beasts of plough."

[12] This is also a Wiltshire name in Domesday, Wodeton, Wootton, Bassett being in Kingsbridge Hundred, North Wilts.

[13] John Wotton was sheriff of Wilts from 2 April, 1281 to 9 May, 1289. *List of Sheriffs* (P. R. O. 1898).

[14] Perhaps 'Bufton' is the modern equivalent.

[15] The Feast of the Purification was 2 February. The date, therefore, is 3 February, 1289.

[16] Among the inquiries by the justices itinerant in their eyre was one "whether any sheriff has distrained beasts of the plough, or wethers, or ewes, or household utensils, or riding horses, or apparel, or things within doors, when other sufficient distress might have been found, and that without doors." Britton (ed. F. M. Nichols, 1865), Book I, c. xxii, vol. i, p. 89.

Hulprinton
Prymes xx boefs des queus les xvij furent venduz
checun a viij souz[17] ke byen valeyt xij souz.
E des treys boefs venduz checun a v souz ke byen valeyt xij souz.
Une bone Jumente vendu a iij souz ke byen valeyt x souz.[18]
Estor vendu
x vaches preygnes vendues checun a v s.
ke byen valeyt viij souz.[19]
E un beaus Tor vendu a v souz ke byen valeyt x souz.[20]
E vj bouez suranez venduz checun a xx d. ke byen valeyt iij souz.
E xxx cheures venduwes pur xxx souz ke byen valeynt xlv s.[21]
E xxvi pors venduz checun a x deners
ke byen valeyt xviij deners.[22]
E un sengler vendu a x deners ke byen valeyt v souz.[23]
Ble vendu
E xxiij quarters de forment bon e net venduz
le quarter a xviij d. ke byen valeyt xxij d.[24]
E xviij quarters de mestilon[25] de forment et de Drowe[26]
vendu le quarter a xij d. ke byen valeyt xx d.
E xxiiij quarter de Orge venduz le quarter
a xiiij d. ke byen valeyt xx deners.[27]
E iij quarters vj bussels de feues venduz le quarter
a xij d. ke byen valeyt xviij deners.[28]
E xiij quarters vj bussels de Dragis venduz le quarter
a xvj d. ke byen valeyt xx deners.[29]
Et ij quarters ij bussels de poys venduz le quarter
a xij d. ke byen valeyt xvj deners.[30]
Cidre vendu
E iiij Toneaus de Cydre venduz le Tonel a v souz
ke byen valeyt x souz.[31]
Feyn vendu
E tout le feyn vendu a x souz vj d. ke byen valeyt xxx souz.
Foer e Paylle
E Foere[32] e paylle venduz a iij souz v d. ob.
ke byen valeyt xiij s. iiij d.

Wamberge
lxxviij quarters de forment venduz le quarter
a xvj d. ke byen valeyt ij souz.[33]

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[17] The average price of oxen in 1288–89 (Michaelmas to Michaelmas) is given by Thorold Rogers as 8s.–9d. *History of Agriculture and Prices* (1866), i. 343.

[18] This must have been an inferior kind of draught animal such as those classified by Rogers as "Affri and Stotts," the average price of which in 1288–89 was 10s. 9¼d. Ibid.

[19] The average price of "cows" in 1288–89 was 5s. 9½d. Ibid.

[20] The average price of bulls was not found by Rogers for each year. In 1284 it was 10^{s}–6^{d}; in 1291, 7s.–6d. Ibid.

[21] Goats (in kid) sold at Theydon, Essex, in 1310 at 10d. Ib. p. 642.

[22] The average price of pigs ("porci") in 1288–89 was 2s. 2¼d. Ib. p. 343.

[23] The average price of boars is only occasionally entered by Rogers. In 1287 it was 3s.–2d.; in 1293, 5s. Ibid.

[24] This is a very low price for wheat, only one lower being recorded by Rogers in 1288–89, viz. 1s. 4d. at Oldington, Salop, though there are four entries as low as 2s. Ibid. ii. 32.

[25] Anglicè, mixtilion, miscellan or maslin; "mixed grain, especially rye mixed with wheat." *Oxford English Dictionary.* The entries for 1288–89 vary between 3s. and 1s. 8d. Rogers, ib. pp. 33, 34.

Hulprinton

First 20 oxen of which[17] 17 were sold, each at 8 shillings which was well worth 12 shillings.

Also three oxen sold at 5 shillings each which was well worth 12 shillings.

A good mare sold at 3 shillings[18] which was well worth 10 shillings.

Beasts sold

Ten cows in calf sold at 5 shillings each which was well worth 8 shillings.[19]

Also a fine bull sold at 5 shillings which was well worth 10 shillings.[20]

Also 6 old bullocks sold at 20 pence each which was well worth 3 shillings.

Also 30 goats sold for 30 shillings which were well worth 45 shillings.[21]

Also 26 pigs sold at 10 pence each which was well worth 18 pence.[22]

Also a boar sold at 10 pence which was well worth 5 shillings.[23]

Grain sold

Also 23 quarters of wheat good and clean sold at 18 pence the quarter which was well worth 22 pence.[24]

Also 18 quarters of maslin[25] of wheat and dredge[26] sold at 12 pence the quarter which was well worth 20 pence.

Also 24 quarters of barley sold at 14d. the quarter which was well worth 20 pence.[27]

Also 3 quarters 6 bushels of hay sold at 12 pence the quarter which was well worth 18 pence.[28]

Also 13 quarters 6 bushels of dredge sold at 16 pence the quarter which was well worth 20 pence.[29]

Also 2 quarters 2 bushels of peas sold at 12 pence the quarter which were well worth 16 pence.[30]

Cider sold

Also 4 tuns of cyder sold at 5 shillings the tun which was well worth 10 shillings.[31]

Hay sold

Also all the hay sold at 10 shillings 6 pence which was well worth 30 shillings.

Forage and Straw

Also forage and straw sold at 3 shillings and 5 pence halfpenny which was well worth 13 shillings and 4 pence.[32]

Wamberge

78 quarters of grain sold at 16 pence the quarter which was well worth 2 shillings.[33]

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[26] "Droue — nom vulgaire de diverses graminées qui fournissent un fourrage de mauvaise qualite." Littré, *Dict. Franc.* No entries are given in Rogers under this head.

[27] The average price of barley in 1288–89 was 2s. 3⅝d. (Rogers, i, 228.) The complainant's valuation is again low.

[28] Rogers supplies no data by which to test this valuation. See ib. ii, 391.

[29] Dredge, drage, a mixture of various kinds of grain, especially of oats and barley sown together. *Oxford Engl. Dict.* Rogers describes it as "a peculiar kind of barley, called drageum, very generally cultivated, especially in the Eastern counties." Ib. i. 27. He identifies it with "bere" and says that "like barley, it was made into malt." Ibid. Its average price in 1288–89 was 1s. 10d. Ib. 228.

[30] The average price of peas for 1288–89 was 1s. 11¾d., almost double the complainant's valuation. Ibid. 228.

[31] The tun of cider (252 gallons) in 1288–89 averaged 8s. 10d. Ibid. 446.

[32] Another form was "forre," whence fourrage, fodder. A. Brachet, *Dict. Etymologique* (1879) s. v. "fourrage." Rogers supplies no data by which to test this valuation.

[33] The average price of oats for 1288–89 was 1s. 6½d. Rogers, i. 228.

E xl quarters de Orge venduz le quarter
a xij d. ke byen valeyt xvj d.[27]
E xliij quarters de Aueyne venduz le quarter
a xij d. ke byen valeyt xvj d.[33]
Et ij quarters de Poys venduz le quarter
a xij d. ke byen valeyt xviij d.[30]
E feyn foere e paylle venduz pur x souz ke byen valeyt . . . souz.[32]
E une charette vendu a x souz ke byen valeyt xiij s. iiij d.[34]

Estor vendu xvij boefs venduz le boef a viij souz
ke byen valeyt xij souz.[17]
E ij Jumenz venduz pur xiiij s. ke byen valeyt xx souz.
E vij bouez de deus anz checun vendu
a iij s. ke byen valeyt v souz vj deners.
E ij Bouez suranez venduz a iiij souz ke byen valeyt vj souz.[35]
E ij Estoz[36] venduz pur v souz ke byen valeyt . . .
E j Poleyn vendu pur vj deners ke byen valeyt . . .
E viij Berbiz venduz le Berbiz a xvij d.[37] ke byen valeyt . . .

Estre ceo viij chapons viij Gellynes wastez e destruyt par Thomas de Bouedon . . .

La Somme de la vente de byens Huwe le Tayllur
venduz a Hulprington e a Wamberge xl . . .
La Somme de la verreye value de byens auantdyt lxij . . .

[*Endorsed:*] . . . re Sire John de Wotton et Thomas de Bouedonne. Hugo le Taylur ponit loco suo Iohannem Turpin et David de Putone ad loquendum pro eo.

Data est dies partibus ~~[in crastino sancti Hillarii]~~ [38]

Postea venit predictus Hugo coram auditore[39] in crastino Purificacionis beate Marie anno xx[40] et queritur de predicto Salamone prout in billa sua continetur. Et Salamon venit per attachiamentum per preceptum auditoris. Et Salomon dicit quod non habet diem hic per continuacionem placiti nec unquam alias audiuit aliquid de predicta billa. Et quia compertum est quod predicta billa alias fuit placitata nec aliqua continuacio inde reperitur reperitur[41] in rotulis per quod predictus Salomon nullum habuit hic diem ad presens. Dictum est predicto Hugoni quod[42] . . . est

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[34] As the cart, the wheels excepted, was chiefly made at home, the prices of whole carts entered by Thorold Rogers are rare. There is, however, one, bought at Marlborough, with iron-bound wheels, the most expensive kind, for precisely this sum of 13s. 4d. Rogers, ii. 522, cf. i. 542.

[35] Double the valuation of the old bullocks sold above.

[36] Qu. "stotts" from Anglo-Saxon "stod." "Stot" for a young bullock or steer seems to be a north-country word nowadays; it was probably more general in the 13th century.

[37] The average price of ewes in 1288–89 was 11d. Rogers i. 352.

[38] Struck through. As St. Hilary's Day is 13 Jan., this would be 14 Jan.

[39] The word shows that this case was one of those into which inquiry was

Also 40 quarters of barley sold at 12 pence the quarter which was well worth 16 pence.[27]

Also 43 quarters of oats sold at 12 pence the quarter which was well worth 16 pence.[33]

Also 2 quarters of peas sold at 12 pence the quarter which was well worth 18 pence.[30]

Also hay fodder and straw sold for 10 shillings which was well worth . . . shillings.[32]

Also a cart sold at 10 shillings which was well worth 13 shillings and four pence.[34]

easts sold

Seventeen oxen sold at 8 shillings a head which was well worth 12 shillings.[17]

Also 2 horses sold for 14 shillings which was well worth 20 shillings.

Also 7 bullocks of two years old each sold at 3 shillings which was well worth 5 shillings 6 pence.

Also 2 old bullocks sold at 4 shillings which was well worth 6 shillings.[35]

Also 2 stots [36] sold for 5 shillings which was well worth . . .

Also 1 colt sold for . . . 6 pence which was well worth . . .

Also 8 ewes sold at 17 pence a head [37] which was well worth . . .

Besides this 8 capons 8 hens wasted and destroyed by Thomas Bowdon.

The sum of the sale of the goods of Hugh Taylor sold at Hulprington and at Wamberge 40 . . .

The sum of the true value of goods aforesaid 62 . . .

[*Endorsed*:] . . . Sir John Wotton and Thomas Bowdon.

Hugh Taylor places in his stead John Turpin and David Putone to plead for him.

A day is given to the parties [on the morrow of St. Hilary].[38]

Afterwards the aforesaid Hugh comes before the auditor[39] on the morrow of the Purification of the Blessed Virgin Mary in the twentieth year [of the king][40] and states his plaint touching the said Solomon as is in his bill contained. And Solomon comes by an attachment ordered by the auditor. And Solomon says that he has not a day here by reason of an adjournment of the suit nor has he ever at any other time heard aught of the aforesaid bill. And because it is found that the aforesaid suit has been heard at another time, and no adjournment of it is found in the rolls, by reason of which the aforesaid Solomon had no day to be here now, the said Hugh is

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ordered by Edward I before seven 'auditors' (see Introduction, p. xlix). But it is neither among those published by the Royal Hist. Soc. (Camden Ser.) in 1906 nor in the analyses of the two assize rolls which form the appendices to that volume. Probably therefore it never came to a complete hearing.

[40] 3 February, 1292.

[41] *Sic*, repeated.

[42] From here to the end only partly decipherable.

per dominum Regem vel per . . . Malet et Gilbertum de[43] . . . quod tunc po . . . recipiendum in has billas et quod predictus auditor pro . . . d auditor predictus Gilbertus . . . ill respondeat et interim . . .

VALENCE *v.* BISHOP OF WORCESTER

1294 Placita coram domino Rege et eius concilio[1] apud Estry iuxta Sandwycum in Octabis sancti Hilarii Anno Regni Regis Edwardi filii Regis Henrici xxii°.

WYGORNIA Preceptum fuit vicecomiti quod cum dilectus avunculus et fidelis Regis Willelmus de Valencia Regi monstrasset quod cum Willelmus Goule balliuus ipsius Avunculi Regis de Manerio de Inteberge simul cum Willelmo le Messager Simone le Caretter[2] Galfrido Pese et Thoma filio Alicie de la Hulle quemdam malefactorem latrocinio rectatum infra libertatem eiusdem Manerii arestasset secundum legem et consuetudinem Regni Regis infra eandem libertatem, justificandum prout de aliis malefactoribus ibidem deprehensis in casibus consimilibus hactenus fieri consuevit; venerabilis Pater Godefridus[3] Wygorniensis Episcopus asserens dictum malefactorem infra libertatem hundredi sui de Oswaldeslawe per prefatos Willelmum Simonem Galfridum et Thomam arestatum fuisse et Custodiam eiusdem ad se pertinere, monensque et Jubens ipsos Willelmum Goule, Willelmum le Messager, Simonem, Galfridum et Thomam corpus dicti malefactoris sic arestati sibi deliberare prout ad ipsum racione libertatis sue predicte pertinuit justificandum, ipsos Willelmum, Willelmum, Simonem, Galfridum et

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[43] Neither this name, nor that of Malet, belongs to any of the seven auditors appointed on 13 October, 1389, *ad audiendum gravamina et iniurias.*

FOOTNOTES TO LATIN

[1] This case was originally transcribed from the Hale MS. Collection (42) in Lincoln's Inn Library; but has since been collated with the original, which is enrolled in the *Coram Rege Roll*, 139 Hilary Term, 22 Edward I (1294). A short note of it is to be found in *Placitorum Abbreviatio* (1811), p. 290, the summary ending with the words "Et postea adjornatur ad parliamentum."

[2] The transcriber of the Lincoln's Inn MS. appears to have read "cleacter," which may have been "clicker" i. e. shoemaker. See *Oxford Engl. Dict.* s. v. But later that MS. reads "caracter"; while the original gives the word as in the text. Mr. Leadam inclined to interpret it as for the Norman "charetter," that is, carter. The word evidently puzzled the Lincoln's Inn transcriber.

[3] MS. 'G.'

FOOTNOTES TO ENGLISH

[1] The liberty of Sandwich was in the Hundred of Estry. E. Hasted, *Hist. of Kent* (1799), iv, 179.

[2] 20 January, 1294.

[3] William of Valence, titular earl of Pembroke, fourth son of Isabella of Angoulême, widow of King John, by her second husband, Hugh of Lusignan, count of La Marche. He was, therefore, half brother of Henry III, father of Edward I. He established himself in England on Henry III's invitation in 1247; married a great heiress, Joan de Munchensi, only surviving child of the wealthy Baron Warin de Munchensi by his first wife Joan, fifth daughter and ultimately co-heiress of William Marshal, first earl of Pembroke. Valence had already in 1289 in the course of another dispute come into collision with Bishop Giffard of Worcester, in which he had been worsted. But he continued high in influence with Edward I from whom he received numerous grants; exercising in addition the administration of his wife's extensive possessions, in right of which he

told that . . . is by the lord the king or by [. . . Malet and Gilbert[43] of . . .] that then . . . to be taken upon these bills and that the aforesaid auditor for . . . auditor the aforesaid Gilbert . . . let him answer and meanwhile . . .

VALENCE *v.* BISHOP OF WORCESTER [1294]

1294 Pleas before the king and his council at Estry next Sandwich[1] in the Octave of Saint Hilary in the twenty-second year of the reign of King Edward son of King Henry.[2]

A precept was issued to the sheriff that whereas the king's beloved and trusty uncle William of Valence[3] had shewn to the king that when William Goule his, the king's uncle's, bailiff of the manor of Inteberge,[4] together with William Messenger, Simon Carter, Geoffrey Pese, and Thomas son of Alice de la Hull had arrested a certain malefactor to put him on trial for robbery within the liberty of the same manor according to the law and custom of the king's realm to be punished within the same liberty, as has hitherto been customary in the case of other malefactors[5] in like cases there taken, the venerable Father Godfrey Bishop of Worcester[6] affirming that the said malefactor had been arrested by the aforesaid William, Simon, Geoffrey and Thomas within the liberty of his hundred of Oswalslawe and that the custody of the same malefactor pertained to himself,[7] both admonishing and commanding them William Goule, William Messenger, Simon, Geoffrey, and Thomas to deliver to him the body of the malefactor so arrested to be punished according as pertained to himself by reason of his liberty aforesaid, because that they refused to obey such his monitions and

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FOOTNOTES TO ENGLISH

was known by the title of earl of Pembroke. His biographer in the *Dict. Nat. Biog.*, from which these particulars are taken, remarks that "the probability seems that he was never formally created earl," which is confirmed by the absence of that title from this case, although as long before as 1264 it had been bestowed on him by a chronicler.

[4] Inteberge, as in Domesday; now Inkberrow, in Mid-Oswaldslaw Hundred, East Worcestershire. At the time of the Conquest it was held by the bishops of Hereford. During the reign of Henry II it passed to John Marshal, grandfather of William of Valence's wife; though Joan of Valence was found by Inquisition of 1 Ed. II to have held the manor at the time of his death. See Nash, *Hist. of Worcestershire* (1782), ii, 6.

[5] A claim to *infangenethef*, or the right to hang hand-having thieves, that is, thieves caught with the goods upon them within the lord's territory upon prosecution by the loser of the goods. See P. & M., *Hist. Engl. Law*, i, 564–567. The Inquisitions "*Quo Waranto*" for Worcestershire had been taken in 4 Ed. I (20 Nov. 1275–1276), *Rotuli Hundredorum* (1818), ii, 282; but it does not appear therefrom that William de Valence enjoyed any such franchise in the Hundred of Oswaldslaw. (Ibid. p. 283.)

[6] Godfrey Giffard, chancellor of the Exchequer, 1266; chancellor of England, 1266; bishop of Worcester, 1268; died, 1300. *Dict. Nat. Biog.*

[7] The return to the Inquisition *Quo Waranto* (Rot. Hund. ii, 282) is "Dicunt quod hundredum de Osewaldesle est in manu Episcopi Wygornensis." The return of the manors in this Hundred (p. 283) does not mention any held by William of Valence.

Thomam pro eo quod hujusmodi monicionibus et iussionibus suis in hoc parere recusarunt majoris excommunicacionis sentenciam in Regis contemptum et dignitatis Regis Regie lesionem et contra sacramentum suum Regi et corone sue prestitum innodauit,[4] a qua quidem sentencia predicti Willelmus, Willelmus, Simon, Galfridus et Thomas ad tuicionem sedis Curie Cantuariensis appellarunt, sicut per quasdam literas patentes sigillo officialitatis Curie predicte signatas coram Rege et consilio suo exhibitas et lectas liquet manifeste. Et quia huiusmodi libertatum seu lesionum earundem cogniciones et corecciones ad coronam et dignitatem Regis specialiter pertinent, ac prefatus Episcopus cogniciones et corecciones huiusmodi ad exheredacionem Regis et Corone et dignitatis Regie lesionem manifestam nititur usurpare, quod sustinere non vult Rex sicuti nec debet, nec huiusmodi contemptum et transgressionem relinquere non vult Rex inpunitos prefatum Episcopum per omnes terras et tenementa que de Rege tenet in Balliua sua sine dilacione distringat, ita quod nec ipse nec aliquis per ipsum manum ad ea apponat donec aliud inde sibi preceperit Rex, et quod haberet eundem Episcopum in propria persona sua coram Rege hic ad hunc diem scilicet in Octabis sancti Hillarii ad respondendum Regi de contemptu et transgressione predictis, et ad faciendum et recipiendum vlterius quod Curia Regis consideraverit in hac parte et modo venit predictus Episcopus et similiter Rogerus de Ingepenne qui sequitur pro rege et dicit quod die Martis proxima ante Gulam Augusti anno Regni Regis nunc xxi° predictus Episcopus Wygorniensis per decanos suos fecit quamdam inquisicionem ad inquirendum qui ceperunt quendam Latronem Thomam nomine in parva Inteberge infra libertatem suam in prejudicium status ecclesie sue, per quam quidem Inqui-

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FOOTNOTE TO LATIN

[4] This may be a clerical error for "innotavit." See Du Cange, s. v. *innotare*.

FOOTNOTES TO ENGLISH

[8] "The greater excommunication . . . involves not only exclusion from passive communion in the sacraments, but also exclusion from active communion in them, and from all association with the faithful. With one thus excommunicated and denounced by name, no layman under pain of the lesser excommunication, nor clergyman, under pain of suspension from his office, may have relations, either in food, drink, prayer, or the kiss of peace." O. J. Reichel, *Complete Manual of Canon Law* (1896), ii, 140.

[9] This presumably refers to the Constitutions of Clarendon (1164), cap. 7. "Nullus qui de rege tenet in capite, nec aliquis dominicorum ministrorum ejus excommunicetur . . . nisi prius dominus rex, si in terra fuerit, conveniatur, vel Justitia ejus, si fuerit extra regnum, ut rectum de ipso faciat." The bailiff of the manor would be bailiff of the demesnes within this Constitution.

[10] The oath of the bishops as set out in the *Statutes of the Realm*, i, 249, runs: "I will be faithful and true, and faith and loyalty will bear to the King and to his Heirs, kings of England, of Life and of Member, and of earthly Honour, against all People who may live and die, and truly will acknowledge, and freely will do the services which belong to the Temporalty of the Bishoprick of (Worcester), which I claim to hold of you, and which you render to me."

[11] This was the Court of Arches, which perhaps originated in the middle of the twelfth century, by way of an attempt to limit the growing authority of the archdeacon's courts. This was done by the creation of the office of Official; a function generally devolving on the chancellor or

commands in this matter, he issued against them a sentence of the greater excommunication [8] in contempt of the king and to the hurt of the king's royal dignity[9] and contrary to his oath made to the king and to his crown.[10] From this sentence indeed the aforesaid William, William, Simon, Geoffrey, and Thomas appealed to the protection of the court of the see of Canterbury,[11] as is manifestly clear by certain letters patent signed with the seal of the official [12] of the court aforesaid exhibited and read before the king and his council. And because the cognizances and corrections of such liberties or of injuries done to the same specially pertain to the king's crown and dignity, and the aforesaid bishop is attempting to usurp the cognizances and corrections of this liberty to the disherison of the king and to the manifest injury of the crown and the king's dignity which the king neither will nor ought to suffer nor is the king willing to leave such contempt and trespass unpunished, (the precept issued was) to distrain without delay the aforesaid bishop throughout all the bishop's lands and tenements held of the king in his bailiwick, so that neither the bishop himself nor any one of himself should lay hand upon them[13] until the king should otherwise issue his precept to him in that behalf, and that he should have the same bishop in his proper person here before the king at this day, to wit, in the octave of Saint Hilary[14] to answer to the king touching the contempt and trespass aforesaid, and to do and to receive further that which the king's court shall have decreed in this behalf. And now comes the aforesaid bishop and likewise Roger de Ingepenne[15] who prosecutes for the king and he says that on Tuesday next before the gule of August[16] in the twenty-first year of the reign of the king[17] that now is, the aforesaid bishop of Worcester by his deans[18] made a certain inquisition to inquire who had taken a certain robber, Thomas by name, in Little Interberge within his liberty to the

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chief secretary of the prelate, who was appointed, not as a mere or special delegate, but as judge ordinary, to execute all the jurisdiction inherent in the person of the bishop, or archbishop, his principal. See *Report of Commissioners on Ecclesiastical Courts* (1883), Parl. Papers, xxiv, p. 26.

[12] See preceding note.

[13] "Ad manum suam ponere; sibi asserere, occupare." Du Cange (ed. Henschel), s. v. manus.

[14] 20 January, 1294.

[15] This name is not among those of the counsel or judges given in Foss, but from the *Calendar of Patent Rolls* 27 Ed. I, p. 445, it would seem that he was a dependant of Aylmer of Valence. On 16 October, 1299, Valence took out a patent of protection for himself, Roger Inkepenne, and Roger Inkepenne the younger, going with him beyond seas (ib. & cf. p. 420). A pedigree of the family is to be found in Sir J. Maclean's *Hist. of Trigg Minor* (1876), ii, 43; but it appears to have derived from Inkepenne in Berkshire, where Roger de Inkepenne held half a fee. *Cal. of Close Rolls*, 20 Ed. I, p. 220, 6 Feb. 1292. Roger de Inkpenne's name occurs in connexion with a Cornish case in *Plac. Abb.* p. 248.

[16] The first of August, otherwise St. Peter ad Vincula. J. J. Bond, *Handbook for Verifying Dates* (4th ed. 1889), p. 156.

[17] 1293. In that year the Gule of August fell on a Saturday; so that the date referred to was 28 July. Ib. p. 58.

[18] Decanus Episcopi; Idem qui vulgo Decanus ruralis, aut Christianitatis, in Legibus Edwardi Confess. cap. 31 . . . Ita autem appellatur quod is ab Episcopo constitueretur. Du Cange, ed. Henschel, s. v. Decanus.

sitionem compertum fuit quod nullus captus fuit infra libertatem suam set quidam talis Thomas captus fuit in eodem loco infra libertatem domini Willelmi de Valencia. Et die Veneris proxima sequente apud Hertlebur' predictus Episcopus excommunicavit Willelmum Goule Balliuum predicti Domini Willelmi et ministrum Domini Regis qui quidem Willelmus non fuit ad capcionem Latronis predicti, et similiter idem Episcopus excommunicavit Willelmum le Messager, Simonem le Caretter, Galfridum Pese, et Thomam de la Hull qui capcioni illius Latronis interfuerunt, quia noluerunt predictum Prisonem ei reddere. Et ista sentencia promulgata fuit a proprio ore ipsius Episcopi. Et die dominica proxima sequente similiter excommunicare fecit predictos Willelmum et alios occasione predicta in Ecclesia parochiali vbi parochiani sunt et in aliis quatuor Ecclesiis circumadiacentibus. Et istam sentenciam fecit per decanos et Capellanos suos. Et in vigilia Assumpcionis beate Marie proxime sequente predictus Willelmus Goule tradidit eidem Episcopo prohibicionem domini Regis pro qua quidem nichil inde facere curauit. Et die veneris proxima post festum omnium sanctorum proximo sequente predictus Episcopus advocauit et probauit per suos procuratores quod ipsi excommunicaverunt predictum Willelmum et alios pro capcione predicti latronis coram Officiali Curie Cantuariensis ad quem predictus Willelmus Goule appellauit pro iniqua sentencia predicti Episcopi. Et in processu Cause predicte appellacionis predictus Episcopus tulit Regiam Prohibicionem predicto Officiali ne in Causa Appellacionis procederet vt excommunicacio sua magis ligaret, pretextu cuius prohibicionis predictus Officialis supersedit quousque optinuit consultacionem de Curia Regis. Et tunc sentenciam predicti Episcopi adnichilauit et istum contemptum fecit predictus Episcopus domino Regi attrahendo sibi iurisdiccionem regalem de capcione et deliberacione Latronum, vbi monstrasse debuit predictum factum Domino Regi, contra sacramentum et ligenciam suam in lesionem Regie dignitatis decem mille marcarum et ad dampnum predicti Willelmi de Valencia duarum mille marcarum et ad dampnum predicti Willelmi Goule centum librarum et hoc est paratus verificare pro ipso domino Rege &c. Et Episcopus venit et dicit quod non vult placitare cum

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[19] That is, next day, 29th July, at Hartlebury Castle, which was completed by Bishop Giffard in 1268, the manor having been held by the bishops of Worcester since the ninth century. Nash, i, 568.

[20] 14 August, 1293, the Feast of the Assumption being 15 August.

[21] The Feast of All Saints, 1293, was Sunday, 1 November; so that this incident took place on 4 November.

[22] "Prohibition, Prohibitio, is a Writ to forbid any Court, either Spiritual or Secular, to proceed in any Cause there depending, upon suggestion that the Cognisance thereof belongeth not to the same Court. Fitzherbert, *Nat. Brev.* f. 39. But is now most usually taken for that Writ which lieth for one that is impleaded in the Court Christian for a Cause belonging to the Temporal Jurisdiction, on the Conuzance of the king's Court, whereby as well the party and his Council, as the Judge himself, and the Register, are forbidden to proceed any further in that Cause. See Broke, loc. tit. & Fitz. *Nat. Brev.* f. 93." J. Cowell, *Interpr.*

[23] The excommunication pronounced by the bishop and, in his absence, by his deans and chaplains was that minor form

prejudice of the dignity of his church. By this inquisition indeed it was found that no man was taken within his liberty but such an one as Thomas was taken in the same place within the liberty of the lord William of Valence. And on the Wednesday next following, at Hertlebur',[19] the aforesaid bishop excommunicated William Goule bailiff of the aforesaid Lord William and servant of the lord the king, which William indeed was not at the taking of the robber aforesaid and likewise the same bishop excommunicated William Messenger, Simon Carter, Geoffrey Pese, and Thomas Hull, who were present at the taking of that robber, because they were unwilling to give the aforesaid prisoner up to him. And that sentence was promulgated by the bishop's own mouth. And on the Sunday next following he likewise caused to be excommunicated the aforesaid William and the others on the same ground in the parish church where they are parishioners, and in four other neighbouring churches. And he passed that sentence by his deans and chaplains. And on the eve of the assumption of the Blessed Virgin Mary next following[20] the aforesaid William Goule delivered to the same bishop the prohibition of the lord the king for which indeed he took no care to do anything in that behalf. And on Wednesday next after the feast of All Saints then next following[21] the aforesaid bishop avowed and proved by his proctors that they excommunicated the aforesaid William and the others for the taking of the aforesaid robber before the Official of the Court of Canterbury to whom the aforesaid William Goule appealed on account of the unjust sentence of the aforesaid bishop. And in process of the cause of the aforesaid appeal, the aforesaid bishop carried to the aforesaid official the king's prohibition,[22] prohibiting him to proceed in the cause of the appeal to the intent that his excommunication should be more binding,[23] by virtue of which prohibition the aforesaid official surceased until he had a consultation[24] from the king's court, and thereupon annulled the aforesaid sentence of the bishop; and the aforesaid bishop committed that contempt against the lord the king by drawing to himself the king's jurisdiction touching the taking and delivery of robbers where he ought to have shewn to the king the fact aforesaid, contrary to his oath and allegiance to the injury of the king's dignity[25] (to the amount) of ten thousand marks[26] and to the damage of the aforesaid William of Valence to that of two thousand marks[27] and to the damage of the aforesaid William Goule to that of a hundred pounds. And this he, Roger, is prepared to prove on behalf of the lord the king &c. And the bishop comes and says that he wills not to

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of the greater excommunication which was designated as "non-solemn," to distinguish it from the "anathema or execration," which last could only be pronounced by the bishop. Reichel, ii, 141.

[24] "A supersedeas is but to stay or forbear the proceedings, that is, super advisamentum sedere, and is not mes un surcesse de advisement." Coke, 4 Inst. 163.

[25] Apparently a case of "moral damage." This is an early example of the "personification of the crown" familiar to us in the phrase "crown and dignity." See P. & M., i, 509.

[26] £6666 13s. 4d. [27] £1333 6s. 8d.

domino Rege set supplicat Domino Regi quod possit se poni de alto et basso in voluntate Domini Regis de hoc quod sibi imponitur. Et super hoc predictus Episcopus requisitus si excommunicauit predictum Willelmum Goule eo quod deliberare noluit predictum captum sibi. Quam quidem sentenciam predictus Episcopus non dedixit. Et dominus Rex habito tractatu cum consilio suo predictum Episcopum in forma predicta admisit et [5] voluntatem suam quam ei dicet cum sibi placuerit. Et dictum est predictis Episcopo et Willelmo quod nichil tangitur in isto processu de eorum libertatibus si quas habeant sed tantum de sentencia injuste lata contra coronam Regis. Et similiter dictum est predicto Episcopo quod secundum Juris exigenciam satisfaciat predictis Willelmo de Valence et Willelmo Goule si sibi viderit expedire vt invenire posset dominum Regem gratiosiorem. Postea Cancellarius venit in Banco et dixit quod mandavit Episcopo quod esset in proximo Parliamento voluntatem Domini Regis auditurus. In quo quidem Parliamento nunciante Gilberto de Roubur' Datus est dies predicto Episcopo in forma qua prius vsque diei Pasche in vnum mensem vbicunque &c.

Loquendum cum domino Rege

CITIZENS OF LONDON *v.* THE BISHOP OF BATH[1]

1295 La peticion des Cyteyns de Loundres a nostre seignour le Rey en priaunt remedie des duresces south escrites.

Primierement cum lour chartres seyent enfraunchi que il ne deyent nule part estre enplede hors de la Cytee de Loundres de lour fraunkes tenemenz, queus il ount denz la Cite, ne unkes a nul tens ne furent,[2] tanque le Esueske de Baa qui ore est, en tens qe il fust tresorer del escheker e Deen de Saint Martin le grant,[3] saunz bref le Rey ne comaundement par poer e par outraiouse destresce, a sa seute demeygne cum Deen et deuaunt li memes, enpleda un Osebern le Leuer,[4] Cytein de Loundres, de soun fraunk tenement en Loundres, ne sour ceo les chalenges le Gardeyn [5] ne les Aldermans

[5] I amend *et* and read *ad voluntatem sua(m)*.

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[1] Found in *Parliamentary Proceedings* (exchequer), roll 8. The roll consists of two membranes of different size, written apparently by two different clerks. It contains transcriptions of the petitions here printed. Wide margins and spaces set off the petitions, and in two places there are evident omissions.

[2] It was a liberty granted in the charter of Henry I and amplified in subsequent charters that none of the citizens should be compelled to plead outside the walls for anything except foreign tenures and things which happen in other parts against the king's peace, etc. Birch, *Charters of London* (1887).

[3] William de la Marche, or de Marchia, cir. 1285 a clerk of the wardrobe, sometime clerk of the chancery, in 1290 dean of the collegiate church of St. Martin's le Grand, and in April, 1290, the successor of Kirkby as treasurer of the exchequer. In 1293 he was elected bishop of Bath and Wells (*Dict. Nat. Biog.*, also *Calendars of Patent* and *Close Rolls*). His appointment to the treasurership was not welcomed by the Londoners. A "king's steward" he was contemptuously called, a man "never seen or heard of before this time" (*Flor. Hist.* III, 280). For his part in the events alluded to in this petition, see Introduction, p. li.

implead with the lord the king, but he prays the lord the king that he may be placed touching high and low at the king's pleasure as to the penalty laid upon him. And thereupon the aforesaid bishop was asked if he excommunicated the aforesaid William Goule because he was unwilling to deliver to him the aforesaid prisoner, which sentence of excommunication indeed the aforesaid bishop did not deny. And the lord the king after discourse with his council allowed the aforesaid bishop in form aforesaid to be at his will to be pronounced to him, the bishop, at the king's pleasure. And the said bishop and William have been told that any liberties they may have are in no wise touched in that process, but that it only concerns the sentence of excommunication unjustly laid contrary to the king's crown; and likewise the aforesaid bishop has been told that by requirement of law he is to make amends to the aforesaid William of Valence and William Goule, should he see fit, in order that he might find the lord the king the more gracious. Afterwards the chancellor came upon the bench and said that a mandamus was issued to the bishop to be present at the next parliament to hear the will of the lord the king. In which parliament[28] indeed at the report of Gilbert of Roubury[29] day was given to the aforesaid bishop in form as before within a month after Easter Day wheresoever the king might be &c.

CITIZENS OF LONDON *v.* THE BISHOP OF BATH[1]

1295 Petition of the Citizens of London to our Lord the king praying remedy for the following duresses.

In the first place, whereas their charters have granted that they shall in no wise be impleaded outside the city of London for their free tenements, which they hold within the city,[2] and they have never been so (impleaded) until the present bishop of Bath, at the time when he was treasurer of the exchequer and dean of St. Martin's-le-Grand,[3] without writ or command of the king (but) by power and outrageous distraint, by his own suit as dean and before himself, impleaded one Osborn le Leuer,[4] citizen of London, for his free tenement in London, without being willing to allow the challenges of the warden [5] (of the city) or the aldermen or their charters with regard

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[28] The next Parliament was held at Worcester on 23 November, 1294. C. H. Parry, *Parliaments and Councils of England* (1839), p. 56.

[29] Gilbert of Roubury was, according to Dugdale, appointed a justice of the king's bench in 1295. (Foss, iii, 294.) The Patent Rolls shew that he was employed as a commissioner of Oyer and Terminer as early as 1292 (*Cal. Pat.* 21 Ed. I, 43). In 33 Ed. I (1304–05) he is mentioned as a clerk of the king's council. Foss, l. c.

[4] or Osbert le Leyre, or Laner, who may have been related to William le Leyre a prominent alderman. The plea here mentioned is given in *Cal. of Letter-books of London* (ed. Sharpe), C, 9 and B, 74, and is discussed in Introd. p. lii.

[5] The warden, appointed by the king in place of the mayor during the period 1285–98, when the city was in hand (see Introd.). It was a charge laid upon the warden on his appointment to office, "to govern the citizens according to their

ne lour chartres alower ne voleyt, Mes forjuga le prodom de son tenement e comaunda le cors a la prison de Flete, e les bones gentz de la Cyte amercia a C. li. pour lour chalenge, e pour ceo il ne voleyent le record e le proces dun play pledee en la Gihalle deuaunt eus fere venir deuaunt luy qe unke ne fu vew ne oy auaunt cel houre dount il prient au Rey remedie.

Derichef par torcenouses atachementz countre chekune fourme de Ley, e par derenables destresces fist venir al Eschekir Sire Johan de Gysors [6] Alderman e Margerie sa femme e austres prodes hummes de la Cyte a respoundre a la Priouresse de Haliwelle [7] de lour fraunc tenement en Loundres sanz comandement le Rey qe auaunt cel houre unke ne estoyt fet, e pour ceo qe les prodes hummes ne voleyent poynt en cele place [8] mettre lour tenemenz en jugement si prist les tenemenz en la meyn le Rey e si les restint par le grant poer qil aueyt, taunt qe par force firent gre a la Priouresse tiel cum ele voleyt a lour deseritison e en defesaunce e anientisement de la Fraunchise de la Cyte countre le chalenge des prodes hummes auaunt diz.

Derichef si ad il fest leuer de la Cyte plus de M[1] li. desterlins tut le plus des dettes le Rey Johan dues a ceo qil dist e de austre tens dount memorie ne court ne de ceus deners ne veut fere aquitaunce ne alowaunce a Cyteyns par taille ne en austre manere de quey il prient remedie.[9]

Derichef il rendirent acounte deuaunt ly de la grant fin de xx. M[1] mars,[10] ne unke alowaunce ne los voleyt fere fors de une sumpme de CCCC. li., mes lour aquitaunces fist retenir vers luy viij jours e plus, e pus les resbailla les seaus brisees e rumpewes par male garde, saunz nule alowaunce fere, e touz jours ad fet coure en somons e en estrete del escheker la sumpme de xx. M[1] mars entierement cum si rien en fu paye, de quey les Cyteyns prient remedie, e qe lour aquitaunces ne lur seient meins alowez pur la brusure.

Derichef les Cyteyns tienent le visconte de Loundres du Rey pour CCCC. li. payaunt par an al escheker,[11] ne vers ceus deners ne unt fors set li. de argent de certeyn, e tut le remenaunt qil perveient vers la ferme soleyent leuer partie partie [12] des pleez e des pourchaz e partie des Custumes

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customs and liberties" (*Ann. Lond.* [Rolls Ser.], 95). In the state trials of 1290 the warden Ralph of Sandwich was accused by the aldermen of failing to defend the citizens against being drawn into pleas beyond the walls. His defense was that in the given case the sheriffs, to whom the writ was directed, were to blame and not himself (*State Trials* [Camden Soc.], 78–80). The wardens of the period were Ralph of Sandwich 1285–89, John le Bretone 1289, Ralph of Sandwich 1289–92, John le Bretone 1293–98. The list given in *Liber Cust.* ii, 241, stands in need of revision.

[6] Gysors or Gisors, a family of mayors and aldermen, prominent for a hundred years, after whom, Stow says, was named Gisors' Hall, corruptly known as Gerrard's. Their traditional trade was that of pepperer. A former John of Gisors was mayor in 1245 and 1259, and died in 1282. The present John was alderman of Ventry 1283–96, and coroner 1282–85 (Beaven, *Aldermen of London; Liber Cust.* i, 240). He was one of the London delegates in the Parliament of Shrewsbury. He acquired considerable property both inside and outside the city, including New Hall or Gisors' Hall in Breadstreet, before his death in

to this; but he forejudged the good man of his tenement and committed his body to the Fleet prison, and the good men of the city he amerced in £100. for their challenge, and whereas they do not wish the record and process of a plea heard before them in the Gildhall to be brought before him, which was never seen or heard of before this time, they pray to the king for remedy.

Moreover by wrongful attachments contrary to every form of law and by deraignable distraints he has brought before the exchequer without commandment of the king Sir John of Gysors[6] alderman and Margery his wife and other good men of the city to answer to the prioress of Haliwell[7] for their free tenement in London, as has never been done before; and because the good men were entirely unwilling to put their tenements under judgment in this place,[8] he seized the tenements into the king's hand and by the great power that he had so constrained them that they perforce made peace with the prioress just as she wished, to their own disinheritance and to the undoing and annulment of the franchise of the city, in spite of the challenge of the good men aforesaid.

Moreover he has caused to be levied upon the city more than £1000 sterling, being the remainder due from the debts of King John, as he says, and of other times beyond memory; while for this money he is unwilling to give acquitance or allowance to the citizens either by tally or in any other way; wherefore they pray for remedy.[9]

Moreover they have rendered account before him for the great fine of 20,000 marks,[10] but he is willing to make neither allowance nor acquittal, except for a sum of £400, but their acquittances were kept by him more than a week, and then returned with the seals cracked and broken by bad keeping, without any allowance having been made; and he has always by summons and by estreat at the exchequer sued for the entire sum of 20,000 marks, as though nothing had been paid; wherefore the citizens pray for remedy and (ask) that their acquittances may be allowed none the less because of the broken (seals).

Moreover the citizens hold of the king the shrievalty of London for £400 a year at the exchequer,[11] nor towards this money have they for certain more than seven pounds of silver, but all the remainder that they provide toward the ferm they are accustomed to levy partly from pleas and perquisites (of the courts), and partly from customs upon divers merchandise,

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1296 (*Cal. Wills in the Court of Husting* [1889], i, 128; *Cal. Pat.* 11 Ed. I, 60, 71).

[7] A Benedictine nunnery at St. Leonard's, Shoreditch. The nuns are in the list of those having a mill; they held various properties and enjoyed the rentals of many tenements in the city. *Letter-books*, A, B.

[8] i. e. in the Exchequer, which was removed to the Husting of London in 1289, where it remained until 1298 when it was transferred to York. Madox, *Hist. of Exch.* ii, ch. xx, § v.

[9] One of many arrearages the basis of which is not known.

[10] The great fine exacted by Henry III in 1265 for the part played by the city in the Barons' War. See Introduction.

[11] The ferm, formerly £300 a year, had been increased in 1270 to £400.

[12] Verbal repetitions occur in several places of the text.

des diuerses marchaundises cum de vyns, des dras, de auoyr de peys, de leynes e des quirs, e des austres choses marchaundes qe soleyent venir a la Cyte en tens de pees, les queux ore poynt ne venent, dount la Guerre est encheson,[13] e tut le plus des pleez, cum pleez des dettes, de trespas, de couenaunt, de mort de auncestre e de nouele disseisine, de pleez de terre partie comensaunt sunt si de nouel par Billes, e saunz comaundement le Rey, Tret en escheker, deuaunt seneschaus e mareschaus[14] qe riens ne demeurt en la Cyte aregard ne en teles pleez ne volunt alower les chartres ne le chalanchs des Cyteyns en nul poynt. Mes souent ount deuaunt eus C. ou CC. des pouere genz de la Cyte, viuauns de meyn ouere en Jurez e enquestes e en assizes e la demorent par viij jours, par xv jours, par des layes, e par ajornemenz, en taunt qe il perdent lour mester e sunt tut enpoueri.[15] E ostendent chescon an duraunt ceste gere deeus viscountes[16] estre aussi cum reynt pour le payment de la ferme del viscounte. Kar tut lour est fortret de quey il dussent la ferme leuer. De quey il prient remedie.

E surtote rien priererint le Rey ses Cyteyns, si il ossasent, qe il les engettast des tieus viltez e de reprouer des tote gentz de Cytez e des villes qui ount fraunchises qe il ne ount poynt, e si li plust les grantast entier estat de fraunchise, cum ancienement soleyent auer, qar le meuz e le plus qe il les tient en estat de bien e de honour le plus serrount suffisaunz a ces liges comandemenz, a queus il sount de tut abaundonez.

A nostre seignour le Rey e a son conseil monstre Peres de Tadecastre qe Mestre Willame de la Marche Esueske de Baa e de Welles a tort li ad fet prisoner en fers en la prison de Flete un an et demy par ses clers Huge de Notingeham,[17] Johan de Kyrkeby,[18] pour unes arrerages del acounte Mestre Roberd de Tadecastre[19] son frere, qui mors est, a qui Peres nest heyr ne executour, mes eus memes unt e sount sesy de touz ses biens e ses chateus, e pour unes arrerages qe eus demandent aly memes a tort. E il pourchasa a un moyns de la seint Michel procheyn passe au dreyn parlement treys brefs le Rey au Gardeyn de Flete, fourmez sour lestatut de

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[13] The war with France, which had long been coming on, was definitely resolved upon in a parliament held in June, 1294. Tout, *Political History*, iii, ch. x.

[14] The marshal of the exchequer is an office described by Madox as originating in a deputy of the marshal of England. It was his duty *inter alia* to seek the recovery of debts due to the king and to appoint auditors for sheriffs' accounts (*Hist. of Exch.* ch. xxiv, § v). But Madox makes no mention of a steward of the exchequer, but there was evidently some such officer. The tribunal here mentioned is not to be confused with the court of the steward and marshal, otherwise known as the marshalsea the court of the king's household. Pleas before the steward and marshal, apparently in the exchequer, are mentioned in *Cal. Letter-books*, B, 83, 91.

[15] According to Britton, sheriffs and bailiffs were prone to summon more people upon juries and inquests than were needed, with the intent to oppress some of them and take bribes from others, or to remove some and put others on. Ch. xxii, c. 10.

[16] Once in 1286 and again in 1293 the king attempted to make his own appointments to the office of the sheriffs. *Appropriatores* they were called in 1293. But

such as wines, cloth, bulky commodities, wool and wool-fells and other articles of merchandise, which usually come to the city in time of peace, but do not come now because of the war;[13] but most pleas such as pleas of debt, trespass, covenant, mort d'ancestor, novel disseisin, and partition of land are lately, by bill and not by writ of the king, drawn into the exchequer, before stewards and marshals,[14] so that nothing remains in the city to award, nor are they willing in (hearing) such pleas to allow the charters or the challenges of the citizens in any way. But often they have before them one or two hundred poor men of the city, labourers (serving) in juries, in inquests, in assizes, by delays and by adjournments being kept for a week or a fortnight, so that they lose their work and are wholly impoverished.[15] And they show each year during this war that the two sheriffs[16] are as nothing for the payment of the sheriff's ferm. For everything has been withdrawn whereon the ferm might be levied. Wherefore they pray for remedy.

And above all his citizens would beseech the king, if they dared, to save them from such villainies and from the reproach of all men of cities and towns, who have franchises which they have not, and if it pleases him to grant them entire their franchised estate, just as they have been anciently accustomed to have, for the better and the more strongly he maintains them in conditions of welfare and honour, the more sufficient they will be to these liege commandments, to which they are wholly devoted.

To our lord the king and his council Pier of Tadcastre shows that Master William de la March bishop of Bath and Wells by his clerks, Hugh of Nottingham[17] and John of Kirkby,[18] has wrongfully made him a prisoner in irons in the Fleet prison for a year and a half, because of certain arrearages in the account of Master Robert of Tadcastre his deceased brother,[19] although Pier is neither his heir nor executor; nevertheless they have seized and are in possession of all his goods and chattels, for certain arrearages that they wrongfully demand of him. And a month after last Michaelmas at the last parliament he purchased three writs of the king to the

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the project met with such resistance that the right of election was confirmed to the citizens. *Ann. Lond.* 95, 102; *Cal. Letter-books,* A, 178; B, 183.

[17] A clerk of the exchequer, later keeper of the great rolls (Madox, ch. xxiv, § iv). In 1297 the city owed him a fee of £20 (*Letter-books,* B, 239).

[18] Not to be confused with the treasurer of the same name who died in 1290. This John appears on the rolls as a clerk, justice of oyer and terminer and auditor of accounts. In 1291 he was keeper of the rolls of the chancery, in 1301 king's remembrancer, in 1307 one of the commissioners to audit the accounts of the Frescobaldi, and in the same year custodian of the plaints made against the late treasurer Walter Langton. His death is mentioned in 1309 in connection with the property that he left. Madox, ch. xvi, § iv; *Calendar Cl.* and *Pat. Rolls,* passim.

[19] A king's clerk, one time a surveyor, who was presented in 1292 to the church of Skipse. *Cal. Cl.* 5 Ed. I, 229; *Cal. Pat.* 20 Ed. I, 497.

acounte[20] pour sa delieuraunce, e souent tendi soffisant meinprise.[21] Mes le Gardeyn rien ne oseit fere pour les maundemenz le Rey, mes respoundi qe le Euesqe comaunda qe nule delieuraunce ne feit de son cors, si il ne trouast seurte de CCC xx li. en countre la nature de ses brefs e la fourme del estatut. E ore a ceo parlement[22] pourchasa il nouel bref, e troua bone meynprise, mes le Euesqe ne voleyt suffrir sa delieuraunce taunt cum il demora Tresorer. Dunt Peres prie ore pour dieu a nostre seignour le Rey qe de ceste grande duresse e torcenouse enprisonement e retenue encountre ces brefs qe dreiture li seit fet.

A nostre seignour le Rey e a son conseil prie Huge de Kent Armurer qe il ly face auer sa pay de xij souz del Eueske de Baa, les queus il ly deyt pour une peyre de Jambeurs,[23] et j payre des quisers,[24] e j payre de poleyns[25] e plates a ses peez, les queus furent pris hors de sa meson par son comandement al oes son cosin saunz nul dener payer, ne puys ceste chose fete unke sa paye ne pourra auer, dunt sil vous plest il vous prie grace e remedie de ceste creaunce pour dieu.

A nostre seignour le Rey e a son conseil se pleint Henri le Bole[26] Cyteyn de Loundres qe par la ou il fust viscounte de Loundres si fust un cheual cum dieu dande pris pour viij mars, e baille a memes celi Henri cum viscounte de Loundres, a respoundre au Rey de memes les viij marcs, lequel chiual Mestre Willame de la Marche Tresorer nostre seignour le Rey en cel cel tens, prist e prendre fist memes cel chiual hors de la gard celi Henri saunz nule alwaunce a ly fere, Dount il est uncore charge de memes les viij mars a tort, pour quey il prie remedie issi qe memes les viij mars li seient alowez ensemblement ensemblement oue la potoure de memes le chiual a la value de x s.

[*Endorsed:*—] Peticiones Ciuium London' pro remedio versus Episcopum Bathon' et Well' Thesaurarium de grauaminibus etc.

A nostre seignour le Rey e a son conseil monstre Peres Jakes de Temedebyr' ke Mestre Willame de la Marche Eueke de Baa e de Welles a tort fist atacher son Cheual en la Meson Rauf le fiz Michel en Staninglane[27] en la Cite de Londres, en les utaues de la Purificacion lan le regne le rey Edward vintime pur li fere rendre aconte del maneir de Wyzintone la ou il ne fu pas ministre ne receuour, mes soulement surueur par son comaundement. E par tel atachement li fist trouer meinprise de rendre aconte del maneir as

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[20] Executors shall have a writ of account, and the same action and process in the same writ as the testator might have had. *Stat. Westm.*, 13 Ed. I, c. 23.

[21] *Manucaptio*, a surety slightly different from bail, by which responsible persons gave bonds to have the party at a time and place, and perhaps to answer for his good behavior. Pollock and Maitland, ii, 584 ff.

[22] Summoned to meet 1 August or three days afterwards. *Parl. Writs*, i, 21.

[23] Jambers or jambeaux = armour for the legs. S. Meyrick, *Antient Armour* (1842), ii, 144.

[24] Quisers, cuisses or cuissaux = plates to fit over the breeches. Ibid. ii, 20, 225.

[25] Poulaine or poleine = a long piked toe in Polish fashion. Ibid. 144.

warden of the Fleet, issued according to the statute of accounts,[20] for his deliverance, and often he tendered sufficient mainprise.[21] But the warden dared do nothing for the commandments of the king, but answered that the bishop had commanded him to make no deliverance of his body, unless he found surety of £320, contrary to the contents of the writs and the form of the statute. And now at this parliament [22] he has purchased a new writ and found good mainprise, but the bishop was unwilling to allow his deliverance so long as he remained treasurer. Wherefore Pier now prays to the king, for God's sake, that in respect of this great duress and wrongful imprisonment and confinement contrary to these writs justice may be done to him.

To our lord the king and his council beseecheth Hugh of Kent, armourer, that they will have him paid 12 shillings which the bishop of Bath owes him for a pair of greaves,[23] one pair of thigh pieces,[24] one pair of poulaines[25] and plates for the feet, which were taken from his house by the bishop's command for the use of his cousin without the payment of a penny, nor after this had been done could he ever obtain payment, whereof he prays you, for God's sake, (to grant) grace and remedy for this debt.

To our lord the king and his council Henry le Bole,[26] citizen of London, complains that when he was sheriff of London a horse worth 8 marks was taken as deodand and given over to the said Henry as sheriff of London to answer to the king for the said 8 marks. This horse Master William de la March then treasurer of our lord the king seized and had the said horse taken from the care of the said Henry without making him any allowance for it, so that he is still charged wrongfully for the said 8 marks, wherefore he prays for remedy that the said 8 marks may be allowed him together with the food of the said horse to the amount of 10 shillings.

[*Endorsed:* —] Petitions of the citizens of London for remedy against the bishop of Bath and Wells treasurer in regard to grievances etc.

To our lord the king and his council Pier Jacob of Tenbury shows that Master William de la March bishop of Bath and Wells wrongfully attached his horse at the home of Ralph son of Michael in Staining Lane[27] in the city of London, a week after the Purification, in the twentieth year of king Edward, in order to make him render account for the manor of Whittington, where he was neither minister nor receiver but only surveyor by his command. And by this attachment he was required to find surety for rendering account for the manor a week from the following Easter. Upon

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[26] Alderman of Bishopsgate 1290–98, and sheriff in 1292. He appears prominently in the records as a witness and litigant. In his will he left a tenement in the parish of Gracechurch and a mansion in St. Peter's upon Cornhull. *Letter-books*, A, B; *Cal. of Wills*, i, 152.

[27] Staining Lane. Maitland suggested that the name was due to the fact that it once contained the haws of the men of

utaues de la Paske prochein siuaunt. A queu jor il vint a Londres oue les Roules kil aueit fet fere hors des Roules le prouost de Wyzintone.[28] E par ceus roules tendi de rendre aconte et le proffry un Meys de jor en jor e au chef du meys fist il enseeler ses roules, e comaunda quil alast alostel deske a la quinzeme de seint Michel prochein suiaunt a queu jor il se proffry a Londres de rendre le aconte iij semaines de jor en jor, e doncke fu il comaunde de aler alostel deske a quinzeme de la Pasche, a queu jor il vint a Londres e se proffri de rendre aconte un meys e ij jors de jor en jor, e doncke fu il comaunde de aler alostel, qar il ne poeit attendre de receyure laconte, e il departy saunz jor. E pus ly fist maunder par Bref as utaues de la Pasche, a quei jor il ne vint pas e fu agarde la grant destresce, e jor done deske a lendemain de la trinite lan xxij.[29] a queu jor il vint e pria Bref au vescounte pur ses issues sauuer, e il fu respondu kil nauereit point auaunt kil eust aconte. E le vescounte ad leue xl. s. de ses issues par le comaundement le Eueke. E il meymes fu a restu de la trinite deske a la seint lorenz[30] par ix semaines e iij jors. E tutdis se proffry de jor en jor del aconte rendre, e donkes aconta. E a chescune venue vint il e demora e ritorna a ses custages demeyne, pur ly, un garcoun e un cheual, dont rens ne ly fu alowe sor son aconte. E sor son aconte a tort ly greua chargaunt de diuerses choses qil naueit mie receu e nient alowant renables despenses e mises, e pur son seruise de iiij aunz, pur manger ne pur beyure, ne pur robe ne pur seute, rens ne li fu alowe, ne il meymes rens ne receut mes a tort e a volente fu mis en arrerages de xvj. li. e mis en la prison de Flete, ileuke ly ad detenu en fers un an e plus dont il prie pur dieu ke de la grace nostre seignour le rey sur tutes greuaunces remedye ly seit fet.

A nostre seignour le Rey monstre Nicole de Clere[31] e se pleint del Eueke de Baa de ceo ke taunt come il fist sur son aconte de Weymuster meyme leueke toly ses lettres le Rey patentes e autre garaunt par les queus il aueit le tresor le rey leaument liuere par comaundement le rey, e ceus garaunts e lettres ad il torzenousement desalowe e retenu e pur arrerage de aconte ou il rens ne deit e par autres tort[z]enouse Jugemenz lad il emprisone e en prison retenu pus lendemain de la tiffanie aueit iij aunz. Si ad les issues de tuz ses benefices de iiij aunz passez pris en la main le rey, e si ly ad sustret e tolet sustenaunz passez sont ij auns e demy par acye kil meurge par defaute de sustenaunce par duresce de prison, ke sa verite ne seit seue. E purceo a nostre seignour le rey prie leuantdit Nicole ke pur deu e pur salme ly pleyst comaunder ke son cors seit deliure de prison e graunter ly

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Staines. *Domesday and Beyond,* 181; Kingsford, *Stow's Survey*, ii, 340.

[28] The land of Nicholas of Whittington, co. Northumberland, mentioned as having been taken into the king's hand because of the owner's default. *Cal. Cl. Rolls*, 18 Ed. I, 147.

[29] = 14 June, 1294.

[30] = 10 August, 1294. The interval was 9 weeks and 3 days according to the method of counting the weeks and days at the beginning and end.

[31] A king's clerk, frequently appointed to commissions in Ireland; in 1284-85 custodian of archbishopric of Dublin; from 1285 until about 1292 treasurer of Ireland. *Cal. Pat. Rolls*, 13 Ed. I, 146, 149, 193; 20 Ed. I, 491.

this day he came to London bringing the rolls which he had had made from the rolls of the manor of Whittington.[28] With these rolls he intended to render account and offered to do so from day to day for a month, and at the end of the month he had his rolls sealed up, having been commanded to go home until a fortnight after the following Michaelmas; at that time he presented himself at London to render the account (appearing) from day to day for three weeks, and then he was commanded to go home until a fortnight after Easter; at this time he came to London and offered to render account (presenting himself) from day to day for a month and two days, and then he was told to go home, since the bishop could not wait to receive the account, and he departed without (having) a day. Then he was summoned by writ (to appear) a week after Easter, when he did not come, and the great distress was awarded (against him), and a day was given upon the morrow of Trinity in the 22nd year.[29] On this day he came and prayed for a writ to the sheriff to save his revenues, but he was answered that he should not have (the writ) until he had accounted. And the sheriff has levied 40s. from his incomes by command of the bishop. And he himself was arrested from Trinity until the Feast of Saint Lawrence,[30] nine weeks and three days, constantly presenting himself from day to day to render account, and then he accounted. And every time he came and stayed and returned at his own expense, for himself, his servant and his horse, for which nothing was allowed him in his account. And in his account (the bishop) had wrongfully aggrieved him charging him for various things that he had never received, and failing to allow reasonable expenses and outlays, while for his services of four years, for food and drink, for robe and suit, nothing had been allowed him; not receiving anything himself he had been wrongfully and wilfully put to losses of £16 and thrown into the Fleet prison, where he had been kept in irons for a year and more, wherefore he prays for God's sake that by grace of our lord the king remedy for all the grievances may be afforded him.

To our lord the king shows Nicholas of Clere[31] and complains against the bishop of Bath that while he was rendering his account at Westminster the said bishop deprived him of the king's letters patent and other warrants whereby according to the king's command he had loyally delivered the king's treasure; these warrants and letters the bishop had wrongfully disallowed and withheld, and, although he owes nothing, for his arrearages and by means of other false judgments (the bishop) has imprisoned him and kept him in prison for three years since the morrow of Epiphany. So the incomes of all his benefices for the last four years have been taken into the king's hand, and withdrawn from him, while he has been deprived of subsistence here for the past two years and a half that he has remained in prison under duress for want of means, so that the truth might not be known. Wherefore the aforesaid Nicholas prays our lord the king that for the sake of God and his soul he may be pleased to command that the

audience e dreiture en sa sourt e auditours doner deuaunt queus sa verite put estre monstre e trye pur le rey, e ke dreytes alowaunces ly seient fetes, e tuz torz repelees e redresces ke fet ly sount. Les auditours ke nostre seignour le rey ly ad auaunt cest hure done par la priere la reyne de Navere sont ceus. Mon sire Willame de Valence[32] le Conte de Garrenne[33] Sire Robert de Hertford.[34] Ore tart auaunt le departyr des Cardinaus[35] par la priere le Cardinal de Gascoyne graunta nostre seignour le rey al auauntdit Nicole audience e dreit en sa court, pleyse nostre seignour le Rey lauauntdite audience graunter e peticion comaunder.

A nostre seignour le Rey monstrent Roger Paw' de Catesby e Henry son frere ke par la ou il furent coylleurs e achatours des laynes Cleysaloe marchaund de Flaundres en le Conte de Leycester, e lur paya ses deners, lv mars, dont il achaterent v sakes de layne le pris du sake xj mars, e le coyllerent en certein lu, cest asauer a Meltone e a Gaddesby, la vint lauauntdit marchaunt e restent celes laynes par certeyn pays, e les fit mettre en sakes, e se tient bien paee del achat. Apres ceo auint ke par comaundement le rey furent seysis en la main le rey tutes les laynes marchaundises des aliens,[36] issi ke le vescounte fist seysir celes leynes oueuke autre marchaundises des aliens; lauauntdit Cleysaloe sa parceut kil ne puet fere son prou des laynes auauntdites, vint al Escheker nostre seignour le rey, e purchaca Bref de fere venir les auauntdiz Roger e Henry a respondre des [diz] lv mars dont il aueient achatez les auauntdites leynes. Les auauntdiz Roger e Henry vindrent en court e aleggerent ke atort demaunda il celle dette vers eus de sicome il bien saueit ke les deners furent applaies en les v sakes de layne kil meymes aueit receu e mis en sake, e la ou les leynes demorent en la garde le vescounte come chateus forfez al eus le rey, furent les auauntdiz Roger e Henry comaundez a la prison de Flete par comaundement le tresorer pur les lv mars e la sont il demore de la quinzeme apres de la seint Michel derreynement passes dekes a ore, e uncore demeorent dont il prient grace e remedye pur deu e pur lalme le rey Henry e la reyne

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[32] William of Valence, titular Earl of Pembroke. *Dict. Nat. Biog.*

[33] John de Warenne, Earl of Surrey. Ibid.

[34] An attorney and commissioner, in 1289 justice of common pleas (*Cal. Pat. Rolls*, 336), in 1290 one of the commissioners to amend any error in a cause at the Husting of London (ibid. 399), and again in 1292 to correct any error in the king's court at London (ibid. 521). His death occurred in 1295 or soon after.

[35] This reference to the cardinals is the clearest guide to the date of the petitions. Immediately on his accession in 1295 Boniface VIII sent two cardinal-legates to mediate for peace between the kings of England and France. They arrived in England 14 August and appeared at the parliament then being held at London (*Cal. Cl. Rolls*, 443, 449). Here they were put off politely on the ground that the king must consult his allies, but they succeeded in persuading Edward afterwards to send envoys to France (Ibid. 506). By 28 September they had already left England to treat in turn with the king of France, bearing a special request of Edward that English and Gascon prisoners might be surrendered to the king of France (*Fædera* O. ii, 687, 689; Hemingburgh, ii, 68). One of the cardinals was

prisoner be delivered, and to grant him hearing and justice in his court, and to provide auditors before whom the truth may be shown and specified for the king, and that just allowances may be made him, and that all wrongs that have been inflicted upon him may be undone and redressed. The auditors whom our lord the king at the intercession of the queen of Navarre had previously appointed are as follows: Sir William of Valence,[32] Earl Warenne[33] and Sir Robert of Hertford.[34] Seeing now before the departure of the cardinals,[35] by intercession of the cardinal of Gascony our lord the king has granted the aforesaid Nicholas hearing and justice in his court, may our lord the king be pleased to grant the aforesaid audience and commend his petition.

To our lord the king Roger Paw of Catesby and Henry his brother declare that whereas they were collectors and buyers of wool for Cleysaloe merchant of Flanders in the county of Leicester, (who) paid them of his money 55 marks, with which they purchased 5 sacks of wool at the price of 11 marks a sack, and while they were collecting it in a certain place, namely at Melton and Gadesby, there came the aforesaid merchant and received the wool at a certain weight, had it put into sacks, and considered himself well satisfied with the purchase. Subsequently by command of the king all the wool (and) merchandise of aliens were seized into the king's hand,[36] so that the sheriff made seizure of this wool together with other merchandise of aliens; (when) the aforesaid Cleysaloe perceived that, because he could not keep possession of the aforesaid wool, he came to the exchequer of our lord the king, and purchased a writ *venire facias* against the aforesaid Roger and Henry to respond for the aforesaid 55 marks with which they had purchased the aforesaid wool. The aforesaid Roger and Henry came to court and alleged that he wrongfully claimed this debt against them since he well knew that the money had been spent for the 5 sacks of wool which he himself had received and filled, and (they say that) whereas the wool remained in the care of the sheriff as forfeited chattels to the use of the king, the aforesaid Roger and Henry were by command of the treasurer committed to the Fleet prison on account of the 55 marks, and there they have remained since the fortnight after last Michaelmas, and there they still remain; wherefore for the sake of God and the souls of

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Berard de Gouth or Got, Archbishop of Lyons, mistakenly called Archbishop of Bordeaux (Eubel, *Hierarchia*, i, 11), here mentioned as cardinal of Gascony; the other was Simon de Beaulieu, Bishop of Praeneste.

[36] The command here referred to has not been found, but there is an order of 5 Nov. 1294 to the warden of the Cinque Ports, to the effect that while merchants of friendly countries might come and go, the goods of all persons under the dominion of the king of France should be confiscated (*Cal. Cl. Rolls*, 22 Ed. I, 375). It is likely that just such an order was issued to London. Henceforth licenses to merchants for the exportation of wool were granted on condition that none of it should go to France.

sa compaigne ke mort est[37] qil ne murgent en prison par pouerte e defaute.

A nostre seignour le rey monstre labbe de Combe[38] qe par la ou Henry le Waleys[39] do[na et graunt]a al auauntdit abbe un mes, e les dous parties de un mes oue les apurtenaunces en la parosse nostre dame de la stronde e de seint Clement deneys taunt come play fu pendaunt entre une femme e leuauntdit Henry. E sur ceo nostre seignour le rey granta par sa chartre[40] al auauntdit abbe la entree, e labbe prist sa seysine solom la chartre, puys vint la femme e recouera vers meymes cely Henry leuauntdit mes par defaute par quey labbe fust en gete. E pus vint leuauntdit Henry e recouera cel mes vers memes cele femme par Bref de dreit en leyre de Middelsex, e autrefeiz refeffa labbe, ore vient le tresorer e seysy cel mes en la main le rey purceo ke la chartre kil ad du rey nest pas renouelee apres le derreyn feffement Henry dont labbe prie a nostre seignour le rey si li plest sa grace.

A nostre seignur le Rey e a seon conseil prie Johan de Erleye[41] sa grace de une reconisaunce kil fist al Escheker puys son age par destresce e par sa noun sauaunce lan nostre seignur le rey vintime des arrerages de la ferme de Northpertone,[42] ke ses auncestres tindrent du rey, les queus arrerages auindrent taunt come il fu de deinz age en la garde le rey encrustrent dekes a cele some la quele il ad reconue, dont il prie nostre seignur le rey ke cele reconusaunce seit si ly plest anentye e pur nule, e qe il pusse estre en lestat come son pere fu Phelipe de Erle le jor kil morust come de cele dette e de ceo qe il ad paye ke il pusse auer alowaunce.

A nostre seignur le rey monstre Johan de Erle ke hom li demaund al Esheker de la mort Phelipe de Erleye son pere relef de Baroun la ou meymes cely Phelipe ne nul de ses auncestres unkes ne furent Barouns, mes tindrent du rey en cheualerye, dont leuauntdit Johan prie pur deu la grace le rey qe il pusse ses terres tenir solom la forme e par les seruises ke ses auncestres tindrent pus le conquest en cea, e qil pusse teu relef payer come len trouera al Escheker ke ces auncestres unt paye auaunt cest hure.

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[37] Some such prayer, in the name of the Queen &c. was frequent in the conclusion of petitions. See *Bills in Eyre* (Selden Soc. 1914), passim.

[38] A Cistercian abbey in Warwickshire. Dugdale, *Monast.* v, 582 f.

[39] Sir Henry le Waleys, or Gualeys, one of the magnates of the city, noted for his wealth and public service. He had been mayor in 1273 and 1281–83, between 1276 and 1294 was alderman of Cordwainer Ward, and in 1283 was member of parliament (Beaven, *Aldermen of London*, i, 113, 239, 263). He appears to have been loyal to the king as well as to the city, serving together with the warden and sheriffs on royal commissions in local affairs (*Cal. Pat. Rolls*). He was among those summoned, as a representative of the city, to a council held by the king in 1296 at Berwick-on-Tweed (*Cal. Close Rolls*, 522). When at length the liberties of the city were restored in 1298, he was the first to be elected mayor. Stow credits him with a number of public improvements, such as beginning the great conduit in Cheap, putting up the Tun, building a row of houses and shops along the wall of St. Paul's churchyard (Kingsford-Stow, i, 17, 54, 188, &c.). His house was so big that it was once used for a parliament (A work worthy of citation in this connection is

the late King Henry and the queen his consort[37] they pray for grace and remedy that they may not perish in prison by reason of poverty and failure.

To our lord the king the abbot of Combe[38] shows that whereas Henry le Waleys[39] granted and conceded to the aforesaid abbot a messuage and two parts of a messuage with the appurtenances in the parish of Our Lady of the Strand and of St. Clement Danes, concerning which a plea was pending between a woman and the aforesaid Henry. Hereupon our lord the king by his charter[40] granted entry to the aforesaid abbot, and the abbot took possession according to the charter, then came the woman who recovered the aforesaid messuage by default, whereby the abbot was ousted. Then came the aforesaid Henry who recovered this same messuage against the said woman by writ of right in the eyre of Middlesex, and again enfeoffed the abbot; now comes the treasurer who seized this messuage into the hand of the king on the ground that the charter which he has of the king has not been renewed since the last enfeoffment of Henry; wherefore the abbot prays to our lord the king, if it pleases him, for his grace.

To our lord the king and his council John of Erley[41] prays for grace concerning a recognisance which he made in the exchequer since he became of age, under compulsion and without knowledge, during the twentieth year of our lord the king, with regard to arrearages of the farm of North Petherton,[42] which his ancestors held of the king. These arrearages accrued while he was under age in the guardianship of the king, having increased to the sum that he had recognised; wherefore he prays our lord the king that this recognisance, if it pleases him, may be cancelled and annulled, and that he may be of the (same) estate as his father Philip of Erley was on the day he died and that for this debt and for the (money) he has paid he may have allowance.

To our lord the king John of Erley shows that by reason of the death of his father Philip of Erley there is demanded of him at the exchequer relief as a baron, whereas neither the said Philip nor any of his ancestors ever were barons, but held of the king by knight service; wherefore the aforesaid John prays the king, for God's sake, that he may hold his lands in the manner and for the services that his ancestors held them since the Conquest, and that he may pay such relief as it shall be found at the exchequer that his ancestors paid before this time.

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that of F. Schenck, *London Merchants of Edward I*, a thesis in Harvard Univ.).

[40] The license for this grant in mortmain is dated 12 May, 1293 (*Cal. Pat. Rolls*, 14), and its reissue, no doubt because of the legal difficulties here described, was of 18 August, 1295 (ibid. 140).

[41] John of Erley, or Erlegh, son and heir of Philip of Erley, from 1275 to 1292 a ward of the king, is on record as doing homage for his lands in 1292. *Cal. Cl. Rolls*, 22 Ed. I, 353.

[42] or Northpederton in Somerset, averred to have been taken into the king's hand for a default (ibid. 388). The arrearages in question amounted to 105s. which was not discharged until 1301 (*Cal. Cl. Rolls*, 29 Ed. I, 433).

A nostre seignour le rey prie Geraud Mauhan[43] qe ad demore vij aunz en dure prison a la tour de Londres par comaundement le tresorer, e des Barouns del Escheker par errour e ignoraunce et pur abettement de ses enemis a tort e a damage du rey, pur encheson des acontes e des assays de la monee contre a ceo kil nesteit oblige, e contre lordinaunce de la monee le rey[44] e contre usage de monee dont il prie a nostre seignour le rey quil pur son prou e pur dreiture voille assigner Sire vtier dengolissme[45] e Mester Willame de Wymondham[46] gardein du change a trier la besoigne par leaus genz ke seuent de moneyrie, sauue ses enemis, e a terminer par dreiture. E entretaunt il prie la grace le rey, si ly plest quil pusse estre delìueres par meinprise destre prest de jor en jor a respondre, e afere au rey ou a chescun home qi vers ly siet rens dire des tutes choses qant que il fere deuera. E pur deu pite vous empregne de ly, kad demore seet aunz en dure prison saunz sa deserte.

Willame sauuage[47] armerer de Londres se pleint qe lesueke de Baa a tort li detient C. e x. s. les queus il ly dust auer paye le jor seint Esteuene[48] en la semaine de noel derrein passe pur armure le quel leuauntdit eueke prist de ly a force a son eus demeyne e countre la volente leuauntdit Willame, dont il prie remedye.

[49] Dautre part prie meymes celi maheu del Escheker[50] qe auditurs li seient donez cheualers ke ne seient mie Justices[51] pour oier e terminer les greuaunces dont il se pleint del Eueke de [*sic*] de Baa kar il monstre ke par la ou il fu mene a Westmoster par prisoner de Flete ke lout en garde, e de ceo fu par meymes le prisoner garaunti[52] la ly fit le dit Eueke fausement juger quil aueit la prison brusee e ly fit juger a la tour de Londres destre ileuke par ij aunz. E pus vint le dit Eueke a la tour, e li fit despoyller deskes a la cote, deschauce saunz ceinture, e saunz lit, e ly fit mettre en polard,[53] e enchesner en jordan,[53] en ij peyre de fierges, e pus fu mis el neir celer sur la tere nue, ou il fu par ij aunz saunz nule nule [*sic*] manere de feu ou autre lumere, ne autre ewe naueit a beyure, fors ke del puz de la tour, ou les raz se neient.

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[43] One of the licensed coiners in 14 Ed. I. Madox, ii, 90.

[44] See the Ordinance of Money, 12 Ed. I, *Statutes of the Realm*, i, 219; and the Form of the New Money, *Red Book of the Exchequer* (Rolls Ser.), iii, 980.

[45] As the name generally appears, Iterius Ingolisma, a king's clerk long in the service of the exchequer as assessor, auditor and receiver of moneys. In 1283 he was a commissioner to audit the accounts of the exchange in Ireland (*Cal. Pat. Rolls*, 72), in 1284 a commissioner to administer the king's money touching clipping and falsification in London (ibid. 130), and in 1293 to receive the king's money coming from the issues of Aquitaine (*Cal. Cl. Rolls*, 297). On several occasions he served as a specially trusted envoy, and finally in 1297 was the king's proctor at Rome (*Cal. Pat. Rolls*, 234). Among ecclesiastical preferments he held the archdeaconry of Bath and a canonry of St. Patrick's Dublin.

[46] Known also as parson of the churches of Dydesham and Barton. *Cal. Pat. Rolls.*

[47] A name in *Letter-books*, A, 119; B, 9, 62.

[48] 26 Dec. 1294.

[49] At this point the scribe has omitted a petition leaving a considerable space un-

To our lord the king prays Gerard Mauhan[43] that he has for seven years remained in strict confinement in the Tower of London by command of the treasurer and barons of the exchequer, because of the error and ignorance and contrivance of his enemies, to the injury and damage of the king, because of the accounts and assays of money beyond what he was bound, contrary to the king's ordinance of money,[44] and contrary to usage of the mint; wherefore he prays to our lord the king that for his profit and for (the sake of) justice he may be willing to assign Sir Itier Dengolesme[45] and Master William of Wymondham[46] warden of the mint to examine the business by (aid of) lawful men, who are acquainted with monetary affairs, saving his enemies, and justly to terminate the matter. In the meanwhile he prays the king, if it pleases him, that he (the petitioner) may be delivered under bonds to be ready from day to day to respond and answer, so far as he ought to answer, the king or any man who may have anything to say against him. For God's sake take pity upon him who has remained in prison seven years without deserving it.

William Savage[47] armourer of London complains that the bishop of Bath wrongfully detains from him 110s., which he was to have paid on St. Stephen's day[48] during the week of last Christmas for armour which the aforesaid bishop took from him by force to his own use without the consent of the aforesaid William, wherefore he prays for remedy.

[49]Moreover the same Matthew of the Exchequer[50] prays that auditors may be assigned to him, knights who are not justices,[51] to hear and determine the grievances whereof he complains against the bishop of Bath, for he shows that whereas he was brought to Westminster by the gaoler of the Fleet who had him in guard, and moreover was guaranteed by the said gaoler there,[52] the said bishop had a false judgment rendered against him that he had broken the prison, and had him committed to the Tower of London there to be kept for two years. Then came the said bishop to the Tower and had him stripped to his shirt, without shoes or girdle and without bed, had him put "in Polard"[53] chained "in Jordan"[53] in two pairs of fetters; and then he was put in the black cellar on the bare ground, where he remained for two years without any kind of fire or light, nor had he anything to drink except from the well of the Tower where the rats drown

filled. According to the next entry it was a petition of Matthew of the Exchequer.

[50] Named in 1290 to hold the office of usher of the exchequer jointly with Adam of Stratton (*Red Book of Exch.* iii, p. cccxxxiii). In the same year he was involved in a quarrel which was heard before the council in parliament. Judgment was not given, but Matthew was proved to have been guilty of deception. *Rot. Parl.* i, 22.

[51] This passage is significant of the distrust that was felt of the king's justices since the state trials of 1290.

[52] The laxness of the keepers of the Fleet in letting their prisoners go at large, either with or without bail, was notorious. A statute, 1 Rich. II, c. 12, forbids the warden to let at large prisoners in execution.

[53] These are unexplained phrases. They may be nicknames for those parts of the prison.

E cele vie mena deskes ataunt ke nostre seignour le rey le deliuera de sa grace. E estre ceo li toli le dit eueke tuz ses biens a la montaunce de CC. liures, e unqes ne poeit auer la meyte, e estre ceo si enuea le dit Eueke teus ke furent a ses Robes destre en une Juree pur prendre cely Maheu e de mettre a la mort, a ses greue damages de M^1 li.

Rauf saunsauer prie la grace nostre seignour le rey de sicome il fu assigne de aler od mon sire Emund frere le rey en gascoyne,[54] meymes cesti Rauf du gre le rey demora de la retaunce sire Willame de Breus[55] par certeins couenaunces de aler pur li en gascoine. Cest asauer de prendre de li C. li. des quels C. li. Rauf receut lx. li. e dous cheuaus. E pur ceo ke les cheuaus ne furent pas suffisables, il deueit prendre x mars utre. Et ala syute sire Willame fu Rauf mene en Court deuant le tresorer e les Barouns del Escheker pur respoundre a leuauntdit sire Willame des lx. li. e des dous cheuaus. E Rauf fu e est tuz jors prest de tenir a mon sire Willame totes maneres de couenaunces, e ensi respondi deuaunt le tresorer e les Barounes del Escheker. E pur ceo ren dirent le jugement ke sire Willame recouereist les lx. li. e les dous cheuaus ou l mars. E densi ke Rauf fu tuz jors prest a fornir a sire Willame tutes couenaunces e nule defaute ne remist en ly, e ceo unt il a verreer, prie remedye de ceo Jugement ke ly semble dur e volentrifs.

Pris par force le tresorer saunz taille saunz escrit e saunz payement armurs de Willame de Herford.[56] Cest asauer une couerturs de fer pris de xvj mars. E ij gounes darmes[57] pris de xxx. s. E ij targes[58] pris de xvj. s. E une payre de bras de balaigne[59] couert de cendal blaunk, e gaunz de suite pris de xl. s. E v payre de gaunz de plates pris de xxxiij. s. iiij. den. Summa: ix. li. xix. s. iiij. den.

[60] Meyme celi Willame monstre a nostre seignour le rey e se pleint du Tresorer ke par la ou celi Willame aueit du doun leuauntdit sire Phelipe vj acres de herbage de hors Londres e meymes celi Willame aueit mis ileuke xj cheuaus a herbe pris de CCC. mars e le dit Tresorer fit prendre ceus cheuaus al eus le rey, e les prist e les liuera a sire Roger de Mouhaut issi ke le dit Willame unkes pur ses cheuaux dener ne poeit auer dont il est deuenu poure, e prie la grace nostre seignour le rey qil le face remedie.

Meime celi Willame se pleint du dit Tresorer qe par la ou meyme celi Willame achata oueuke Foun deus cheuaus al eus le rey pur C. xvj. li. e j marc le Tresorer li detint les xvj. li. e le marc, issi qe il couent a meymes celi Willame paier ceus deners as marchaunz de sa bourse demeyne si le rey ne

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[54] This allusion helps to date the petitions, for Edmund of Lancaster's expedition was decided upon 10 September, 1295. Delayed by ill health however he did not go until March, 1296.

[55] William of Brewes, Breus, Brehus, or Braose had set out from Portsmouth on the expedition to Gascony in September, 1294. Dugdale, *Baronage*, i, 420.

[56] An armourer of London, not to be confused with an alderman of the same name. *Letter-books*, A, 39, 41, &c.

[57] A gown known as surcoat worn over the armour. Meyrick, *Antient Armour*, i, 100.

[58] A shield held upon the arm in distinction from a buckler held by the hand. Ibid. i, 146.

themselves. This life he led until our lord the king of his grace delivered him. Moreover the said bishop took from him all his goods to the value of £200, and he has never been able to obtain the half of it; also the said bishop sent men such as were of his livery to be on a jury to take the said Matthew and put him to death, (causing him) grave damages of £1000.

Ralph Sansauver prays for the grace of our lord the king, that whereas he was assigned to go with Sir Edmund the king's brother to Gascony,[54] the said Ralph by favour of the king remained in the retinue of Sir William of Breus[55] under certain covenants to go for him to Gascony. That is, taking from him £100, for which Ralph received £60 and two horses. And because the horses were not sufficient, he ought to have had 10 marks more. And at the suit of Sir William Ralph was brought to court before the treasurer and barons of the exchequer, to respond to the aforesaid Sir William for the £60 and two horses. Since Ralph was and is always ready to keep all kinds of covenant with my lord William, he therefore responded before the treasurer and barons of the exchequer. Thereupon they gave judgment that Sir William should recover the £60 and the two horses or 50 marks. And because Ralph was always ready to perform every covenant with Sir William without default or remissness, as they can see, he prays for remedy in respect of this judgment which seems to him harsh and arbitrary.

Taken by force of the treasurer without tally or writing or payment the armour of William of Hereford.[56] That is, a coat of mail worth 16 marks, 2 gowns of arms [57] worth 30 shillings, 2 targets [58] worth 16 shillings, and a pair of arm-pieces of whalebone [59] covered with white sendal together with gauntlets to match worth 40 shillings, and 5 pairs of gauntlets of plate worth 33s. 4d. Sum of £9 19s. 4d.

[60] This same William shows to our lord the king complaining against the treasurer that the said William had by gift of the aforesaid Philip 6 acres of pasture outside of London, where the said William had placed 11 horses to grass worth 300 marks, and the said treasurer had these horses seized to the use of the king, taking and delivering them to Roger Mouhaut, so that the said William could never have money for his horses, whereby he has been impoverished. He therefore prays the grace of our lord the king to afford remedy.

This same William complains of the said treasurer that whereas the said William had purchased two horses with hay for the use of the king for £116 and 1 mark, the treasurer distrained him of the £16 and the mark, so that it is incumbent upon the said William to pay this money to the mer-

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[59] Balon, baleine, balayn = whalebone for making crests of helmets, &c. Ibid. Glossary.

[60] There is another omission in the roll at this point. Undoubtedly it is a petition of William Parson mentioned at the end.

ly face grace, dont il prie sa grace, qar il est issint mis a dessuz ke rens ne ly est remis.

A nostre seignour le rey e a son conseil monstre Richard le brewere de la ville de Westmoster. E se pleint del eueke de Baa, qe taunt come il fu tresorer nostre seignour le Rey prist de meyme celi Richard Cerueise ala montaunce de xlviij. li. xvj. s. vj. den. aky leuauntdit Richard taunt come il fu en cel haut office nosast contredire, ne son chatel pur pour demprisonement ne osast demaunder, mes cel argent ly ad detenu un an e plus dunt memes celi Richard issi est enpoueri qe il ad vendu ses mesons e qant qe il out pur payer a marchauns une parti de ceo qe il lur deueyt pur ble a memes cele cerueyse apromte. E ore ne pout il rien prendre a creance pur ceo qe il deyt taunt a marchauns e tant a desouth par cele dette, mes le auauntdit Richard e sa femme e lour enfaunz enpoynt de aler payn querant, si nostre seignour le Rey e son conseil ne luy facent remedie par tens, dont il pri remedie pur dieu.

A honurable rey dengletere e a son conseil prie Johan Bone de Walingford ke come il estoit aucun tens tenuz a sire Adam de Strattone[61] en xviij. li. dargent par une reconisaunce fete al escheker nostre seignour le rey les queus xviij. li. leuauntdit Johan paia bien e leaument solom les termes contenuz en la reconisaunz, issint ke rens ne est arere lontens auaunt son forfet, e des queus soutes lauauntdit Johan aueit bones aquitaunces enselees du seel meime sire Adam come reson voleit, mes le tresorer nostre seignour le rey ad fet sercher tutes les reconissaunces les queles furent fetes a meyme celi sire Adam en tens kil fust el seruise nostre seignour le rey. E les fist venir par ses Brefs del escheker a respoundre a nostre seignour le rey de meimes les dettes. Johan Bone de Walingford un de ceus ke ceste grace prie est a resone par le tresorer en plein escheker sur les auauntdit xviij. li. par la reconissaunce, e les respons est, e sa alegaunce, tuz jors ke il aueit ses aquitaunces bones fetes longtens auaunt le forfet sire Adam, les queles valer ly dussent sil les pout auer eu en jugement, mes il nel poeit mie auer a cele hure en alegeaunce de ly par la reson de une forte meschaunce ke ly auint sodeinement taunt come il fust hors du pays. Cest a dire ke la meschaunce fust i cele ke le priur de Walingford[62] oue sa suite e la femme lauauntdit Johan Bone par une mauueise compassement entre eus fet nuytauntre roberent qantque Johan aueit de meoble, cest adire, come en tresor de seon et de autry, e un forcer oueuke ses jueaus en quel ces aquitaunces furent, emporterent, issint qe les aquitaunces qe li dussent auer

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[61] The notorious clerk and chamberlain of the exchequer who made a fortune by his peculations. He was a principal defendant in the state trials of 1290, as a result of which he was removed from office and his property confiscated (*State Trials* [Camden Soc.], 85, 87; also *Red Book of Exch.* iii, p. cccxv). What is now alleged is closely in line with the charges previously laid against him, that he would decoy men into debt and then employ the agencies of the exchequer against them. Although Stratton had been pardoned by the king, in consideration of 500 marks,

chants out of his own purse, unless the king shows him favour; wherefore he prays for grace, since he is so reduced that nothing is left to him.

To our lord the king and his council shows Richard the brewer of the town of Westminster, complaining against the bishop of Bath who, while he was treasurer of our lord the king, took from the said Richard beer to the value of £18 16s. 6d., for so long as the bishop was in this high office the aforesaid Richard did not dare to refuse him, nor did he dare to demand his chattel because of (the bishop's) power of imprisonment, but this money was kept from him for more than a year, whereby the said Richard is so impoverished that he has sold his house and all that he has, in order to pay merchants a part of the debt he owes them for corn (to make) this beer. But now he can not borrow anything, because he owes the merchants so much and is so much in arrear by this debt, but the aforesaid Richard, his wife and children are nigh to paying the penalty, unless our lord the king and his council afford remedy in time, wherefore he prays remedy for God's sake.

To the honorable king of England and his council prays John Bone of Wallingford that whereas he was once bound to Sir Adam of Stratton[61] in £18 of silver by a recognisance made at the exchequer of our lord the king, which £18 the said John well and loyally paid according to the terms of the recognisance, so that nothing is in arrears a long time before his forfeiture and of these payments the said John had good acquittances ensealed with the seal of the same Sir Adam as is reasonable, but the treasurer of our lord the king has had all the recognisances searched which were made to the same Sir Adam during the time that he was in the service of our lord the king. And he made them come by his writs of the exchequer to answer our lord the king for the same debts. John Bone of Wallingford, one of those who prays for this grace, is arraigned by the treasurer in full exchequer for the aforesaid £18 by virtue of the recognisance; and the answer is, and his plea, in that he had made good his acquittances a long time before the forfeiture (of) Sir Adam, which (acquittances) should have availed him if he could have had them in judgment, but he could not possibly have them at this time in allowance by reason of a severe mischance that had suddenly happened to him in that he was out of the country. That is to say, the mischance was that the prior of Wallingford[62] with his followers and the wife of John Bone, by an evil design wrought between them by night, stole whatever moveables John had, that is, such as were treasure of himself and others, and a strong-box with his jewels, in which his acquittances were, bore them away, so that the acquittances which

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his properties continued to be held in hand and managed by the exchequer. As in the present case, Stratton's debtors were answerable to the king of whom the petitioner, for the reasons alleged, seeks a release. The murder of Stratton is mentioned in 1304 (*Cal. Cl. Rolls*, 212).

[62] A Benedictine priory in Berkshire, cell to St. Albans' Abbey. Dugdale, *Monas.* iii, 278.

valu en ceo cas furent emportez par quey Johan Bone prie grace nostre seignour le rey ke il ly voille granter qil pusse auer auerrement par bon pais de la soute fete a sire Adam de Strattone, e qil aueit les aquitances auaunt le forfet sire Adam.

[The part in italics has been struck through: —] *Iste peticiones deficiunt videlicet peticio J. de Erleye de recognicione. Item alia ejusdem J. de Erleye de Releuio. Peticio Gerardi Mauhan. Peticio Willelmi Sauuays. Peticio Maheu del Escheker que sic incipit, De autre part prie meyme cely maheu. Item peticio Radulfi Saunzauer.* Peticio Willelmi Persone in duobus articulis.

[*Endorsed:* —] Tangunt Episcopum Bathon'.

THE BISHOP OF SABINA *v.* BEDEWYNDE[1]

1307

Ebor.' De Thesauraria Eboraci data Waltero de Bedewynd' per Regem

Dominus Rex mandauit consilio suo existenti London' breue suum de priuato sigillo, quod residet ad scaccarium inter communia de hoc anno xxxv^{to} in hec verba:

> Edward par la grace de dieu Roi Dengleterre, Seigneur Dirlaund', Ducs Dacquitanie, a nos foiaux et loiaux les honurables peres en dieu par la meisme grace R.[2] Euesqe de Loundres, nostre Chauncellier et W.[3] Euesqe de Cestre, nostre Tresorier, Henri de Lacy[4] Counte de Nichole, nostre chier Cosyn Guy[5] Counte de Warrewyk' et as autres de nostre Conseil a Loundres, salutz. Pur ceo qe qant a la requeste qe loneurable pere en dieu Pieres,[6] par la meisme grace Euesqe de Sabyne, Cardinal de la seinte Eglise de Rome, nous fist entre les autres choses dont il nous parla, pur celui qe fu Tresorier en leglise Deuerwyk, endreit de meisme la Tresorie, nous lui respoundismes qe nous ferriens cele busoigne a sa moustraunce examiner par ceux de nostre consail si qil en ordeinereient quei enferroit a faire par resoun vous mandoms qe oye la mustraunce qe le dit Cardinal voudra faire deuant vous, en dreit de la dite Tresorie, examinez bien et diligeaument la busoigne, et ordinez en tieu manere qe le dreit de nostre Corone et le dreit de nostre chier clerk Wautier de Bedewynde,[7] a qi nous auoms done la dite Tresorie entierement oue tutz

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[1] The record is in *Memoranda Roll* (Exch. K. R.), 35 Ed. I, mm. 41–42d.

[2] Ralph of Baldock. *Dict. Nat. Biog.*

[3] Walter of Langton. Ibid.

[4] Ibid.; Dugdale, *Baronage*, i, 103.

[5] Guy of Beauchamp, *Dict. Nat. Biog.*

[6] Commonly called Peter of Spain, bishop of Burgos and cardinal bishop of Sabina. He had been sent by Boniface VIII as legate *a latere*, ostensibly to treat for peace between England and France, but actually to deal with the ecclesiastical questions that were to be raised at the coming parliament at Carlisle. He seems to have arrived in England some time in March, 1307 (*Cal. Cl. Rolls*, 491), and made his way to Carlisle where he was in communication with the king during the parliament and for a short time afterwards. Here the principal concern was in the matter of annates. Although the cardinal could not stem the tide of legislation, he succeeded at least in modifying the king's ensuing orders. The question of provisors

ought to have availed him in this case have been carried off; wherefore John Bone prays for the grace of our lord the king to grant that he may have averment in good peace of the payment made to Sir Adam of Stratton and that he had the acquittances (made) before the forfeiture (of) Sir Adam.

[The part in italics has been struck through:—] *The following petitions are lacking: the petition of John of Erley concerning a recognisance; also another of the same J. of Erley concerning a relief; petition of Gerard Mauhan; petition of William Savage; petition of Matthew of the Exchequer which begins "Moreover the same Matthew prays"; also the petition of Ralph Sansauver;* petition of William Parson in two articles.

[*Endorsed:* —] Concerning the bishop of Bath.

THE BISHOP OF SABINA *v.* BEDEWYNDE[1]

1307 York. Touching the Treasurership of York given by the King to Walter of Bedewynde

The lord the king sent to his council remaining at London his writ under the privy seal, which remains at the exchequer among the common matters of this the 35th year and runs as follows:

Edward, by the grace of God king of England, lord of Ireland, duke of Aquitaine, to our faithful and loyal, the honourable fathers in God by the same grace R.[2] bishop of London our chancellor, and W.[3] bishop of Chester our treasurer, Henry of Lacy[4] earl of Lincoln, our dear cousin Guy[5] earl of Warwick, and others of our council at London, greeting. Whereas at the request made to us by the honourable father in God, Peter,[6] by the same grace bishop of Sabina, cardinal of the holy church of Rome, among other things whereof he speaks to us, in behalf of the late treasurer of the church of York, in regard to the same treasurership, we have answered him that at his suggestion we should have this matter examined by the men of our council, who should ordain what should be done according to reason; we (therefore) command you, that having heard the statement which the said cardinal will make before you in regard to the said treasurership, after examining the matter well and diligently, you ordain whatever shall guard in all points the right of our crown and the right of our dear clerk Walter of Bedewynde[7] to

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was of less moment. On the treasurership of York now in dispute he drew up the present petition but left the prosecution in the hands of a proctor. Before his departure he was granted by the king an annuity of £50 and many procurations (*Cal. Pat. Rolls*, 530). He left the kingdom apparently in July (*Cal. Cl. Rolls*, 510).

[7] Betewynd or Bedewind, a clerk whose career in the king's service can be traced since 1298. In the present year 1307 he is mentioned as cofferer in the wardrobe (*Cal. Pat. Rolls*, 495). His confidential relations with the king are attested in the letters patent that were granted "on information of Walter de Bedewynde" (Ibid. 434, 482). He was given in reward the churches of Kilpatrick on Clyde, Heyford Waryn, Wysteineston, Steventon, a prebend in the chapel of Hastings and the prebend of Morvill (ibid.). The grant of the treasurership of

ses dreitz et tutes apurtenaunces, et en qi nous la voucheoms bien sauue, seient gardetz en toutz pointz, si auaunt come dreit et reison le purront suffrir, les queux choses sunt passeez deuaunt vous auaunt ces houres [8] a ceo qe nous auoms entendu. Et si vous truffez qe nous eoms donez la dite Tresorie a nostre dit clerk par dreit de nostre Corone, et il eit dreit de la tenir par my nostre doun, la queu chose nous entendoms bien, a donqes li facez faire lettres souz nostre grant seal, tantz et tieles come entre vous verrez qe mester lui aueront, et qant il aura busoign pur meintenir son dreit et sa possession de la Tresorie auauntdite, si qil en puisse joier solonc nostre doun auauntdit. Et qant vous aurez ensi triez et declarez nostre dreit, ordinetz entre vous acune bone et couenable fourme par la quele vous facez enfourmer nostre piere le Pape de par nous sour nostre dreit auaunt dit en la meilleure manere qe vous verrez qe face a faire, et apres ceo nous certifiez pleinement coment vous auretz totes ces choses ordenees et faites. Done souz nostre priue seal a Cardoill' [9] le xxvj jour Daueril lan de nostre regne trentisme quinte.

Et prefato consilio Regis existente apud Westmonasterium ad scaccarium ipsius domini Regis modo in crastino Ascensionis Domini [10] optulit se coram eodem consilio quidam [11] ex parte predicti Cardinalis et exhibuit quandam peticionem coram eodem consilio in hec verba:

Vacante olim Thesauraria Ebor' apud sedem apostolicam per priuacionem domini Johannis de sancto vico de domo Columpnensium, [12] collata fuit ipsa Thesauraria domino Theobaldo de Baro [13] per dominum Bonifacium Papam Octauum, ipseque dominus Theobaldus ad illam ex collacione predicta receptus fuit, et eam notorie possedit per sex annos vel circa pacifice et quiete, domino Rege Anglie illustri sciente fauente et litteras attornati [14] sibi pro illa concedente; postmodum autem ipso domino Theobaldo promoto et consecrato in Romana Curia auctoritate eiusdem domini Pape in Episcopum Leodiensem, et per hoc

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York now in dispute is dated 1 Nov. 1306. One other office was granted to him, namely that of king's remembrancer in the exchequer under Edward II, but this he gave up within two years (*Cal. Pat.* 3 Ed. II, 220). Besides the claims of the papal provisor, he had to contest a suit begun by the parson of St. Gregory touching certain properties in connection with the treasurership (*Year Books*, 3 & 4 Ed. II [Selden Soc.], 13, 207). On his lifelong struggle to hold the treasurership against the claims of the papacy, see Introd. pp. lxi–lxii.

[8] The matter was previously referred to the council by a writ of 18 February. *Rot. Parl.* i, 218.

[9] The parliament closed in March but the king's letters are dated from here until the end of June.

[10] 5 May.

[11] The scribe has left this space vacant apparently with the intention of filling it later. Lower down in the record the cardinal's proctor is mentioned as a clerk.

[12] Fifth son of John Colonna, Senator and dictator of Rome in 1290 (Gregorovius, *Rome in the Middle Ages* [trans. Hamilton], v, 513, 541). This John was a papal provisor to the treasurership of York in 1293, and in the next year was provided to the archdeaconry of Huntingdon by Celestine V and to the prebend of Leighton Manor dio. Lincoln (Le Neve,

whom we have given the said treasurership entire with all its rights and appurtenances, and in whose hands we trust it is quite safe; (do this) as (we have said) before according to right and reason, for this matter, as we have understood, has previously [8] come before you. And if you find that we have given the said treasurership to our said clerk according to the right of our crown, and if he has the right to hold it according to our gift, as we fully believe (he has), then do you cause letters under our great seal to be issued to him, whatever you yourselves shall find there is occasion for, and so far as there shall be need, in order to maintain his right and his possession of the aforesaid treasurership, so that he may enjoy it according to our aforesaid gift. And when you shall have thus tried and declared our right, do you yourselves decide upon some good and suitable instrument whereby you will in our behalf inform our father the pope in regard to our aforesaid right, in the best way that you can; and then do you certify us fully how you have ordained and done everything. Given under our privy seal at Carlisle [9] on the 26th day of April in the 35th year of our reign.

To the aforesaid council of the king remaining in the exchequer of the lord the king at Westminster, on the day after Ascension Day,[10] there appeared before the said council in behalf of the said cardinal a certain [clerk],[11] who presented to the said council a certain petition containing the following words:

> At the time the treasurership of York was vacant at the apostolic see through the privation of John de Sancto Vito of the house of Colonna,[12] the said treasurership was conferred by Pope Boniface VIII upon Theobald de Bar,[13] and this Lord Theobald by virtue of the aforesaid collation was admitted to the treasurership, which he is known to have possessed quietly and in peace for six years or thereabout, with the knowledge and favour of the illustrious lord king of England who granted him letters of attorney [14] in regard to it. But after the said Lord Theobald by authority of the said lord the pope had been promoted and consecrated in the Roman curia as bishop of Liége, and when for this

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Fasti, ii, 49, 159, 176). How he and all other members of his family were deposed in 1295 is told below.

[13] de Barres, or Bar-le-Duc, held the treasurership from 1297 to 1303, when he was made bishop of Liége (Le Neve, ii, 139). He was a brother of Henry Count of Bar the husband of King Edward's eldest daughter, and was honoured by the king as a relative. He had gained other ecclesiastical preferments in England, including a presentation to the church of Pagham dio. Canterbury in 1294 (*Cal. Pat. Rolls*, 66) and the prebend of Banbury in 1297 (ibid. 261). On the Continent he was a canon of Rheims, and in 1297 was the candidate of a part of the chapter for the bishopric of Metz (*Cal. Pat. Rolls*, 97). King Edward gave him first place among the receivers of the lands of his brother, whose death was reported in 1302 (*Cal. Cl.* 30 Ed. I, 605, 606). He was bishop of Liége from 1303 to 1312 (Gams, *Ser. Epis.*).

[14] No letters of attorney have been noted, but in 1297 he was granted letters of protection for staying beyond seas for two years. *Cal. Pat. Rolls*, 229.

eadem Thesauraria apud ipsam sedem vacante, ipse dominus Papa contulit eam domino Francisco Gaytano[15] nepoti suo plena sede Ebor', quam ipse dominus Franciscus pacifice adeptus fuit, et usque ad mensem Februarii proximum preteritum quiete, notorie et sine contradiccione possedit, quinimmo dominus Rex manutenuit eum in illa, concedens sibi pro illa litteras attornati, contra que propter premissa de iure veniri non debet; verum ad suggestionem aliquorum, ipso domino Francisco non monito nec citato legitime, set in remotis agente notorie, scilicet in Anagina, ex dispensacione tamen apostolice sedis, nec procuratorem habente super hoc, nec debente habere, cum alias non esset sibi mota questio super iure dicte Thesaurarie, nec speraretur moueri, cum esset in pacifica possessione eiusdem et fuisset per triennium et ultra, nullo reclamante, ipse dominus Rex Thesaurariam ipsam Waltero de Bedewynde contulit, et ipsum in illius possessione mandauit induci, et inductus fuit, et sic ipse dominus Franciscus est illa indebite spoliatus. Quare cum ex premissis appareat manifeste dictum dominum Franciscum habuisse et habere plenum ius in dicta Thesauraria, et eam pacifice possedisse, ac ea que contra eundem in premissis sunt attemptata facta esse iniuriose et contra iusticiam, et eciam quia fuit inhibitum familiaribus ipsius domini Francisci et omnibus aliis ius suum volentibus proponere, seu eciam allegare, sub pena capcionis per litteras Regias, quas non est verisimile nec creditur de dicti domini Regis consciencia emanasse, quorum familiarum duo adhuc detinentur attachiati, scilicet Magister Franciscus de Luco,[16] Capellanus domini Francisci Cardinalis,[17] et Thomas, nepos eius, contra deum et iusticiam, licet in nullo deliquerint, placeat per vos dicta grauamina tolli et reuocari, et quod dictus dominus Franciscus sine molestia et contradiccione cuiusquam dictam Thesaurariam et iura ipsius pacifice possidere valeat et habere.

Et peticione illa plenius intellecta quesitum est a prefato [11] qui eandem peticionem exhibuit, si quid aliud ex parte prefati Cardinalis, seu pro parte predicti Francisci super premissis velit dicere vel exponere, quam ea que continentur in peticione predicta, seu aliquid in ipsa contentum ulterius declarare etc.; qui dicit quod non, set instanter petit prefatum Franciscum ad possessionem predicte Thesaurarie admitti et restitui

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[15] Son of Peter Count of Caserta, nephew of Cardinal Francis Gaetano mentioned below, and grand-nephew of Pope Boniface VIII (Gregorovius, v, 540). Besides the prebends of Knaresborough and Stillington dio. York (Le Neve, iii, 196, 212), he held also the treasurership of Tours and canonries and prebends in Rome, Paris and Anagni (*Cal. Papal Letters*, i, 611). In May, 1303, the pope further provided him to the treasurership of York then voided by the promotion of Theobald de Bar. His claim to this position, which is now disputed by Bedewynde, he maintained through a long course of litigation until 1316, when he lost all his benefices by a determination to marry. (Ibid. ii, 344.)

[16] At the request of Cardinal Francis Gaetano he was provided by the pope in 1316 to a canonry and prebend in the see of York (*Cal. Pap. Letters*, i, 125). He was holding the prebend of Laughton-en-le-Morthen in 1318 (Le Neve, ii, 200).

reason the said treasurership was vacant at the said (apostolic) see, the said lord the pope conferred it upon his nephew Lord Francis Gaetano,[15] the see of York being filled (at the time) which the said Lord Francis peacefully secured, and until the last month of February possessed quietly, conspicuously and without dispute; nay the lord the king maintained him there, granting him letters of attorney in respect of it, against which, because of what has been said, nothing rightfully ought to be brought; but at the suggestion of some, although Lord Francis himself was neither warned nor legitimately cited, but while he was known to be abroad, namely in Anagni, by dispensation indeed of the apostolic see, when he had no proctor for the matter and was not bound to have any, since no question had previously been raised or was expected to be raised against him as to the right of the said treasurership, since he was in peaceful possession of the same and had been for three years and more, the lord the king himself bestowed it upon Walter of Bedewynde and commanded that he be given possession of it, and (accordingly) he was inducted, so that the said Lord Francis was wrongfully deprived of it. Whereas it is manifestly evident from the premises that the said Lord Francis has had and (still) has full right to the said treasurership, and has possessed it in peace, and that those things which had been attempted against him in the premises had been done wrongfully and contrary to justice, moreover since the servants of the said Lord Francis and all others wishing to assert his right, or even to allege it, had been forbidden under penalty of arrest by royal letters, which it is not probable or credible have been dictated by the conscience of the said lord the king, and (since) two of these servants have been attached and detained, namely Master Francis de Luco,[16] chaplain of the Lord Cardinal Francis [17] and Thomas his nephew, against God and justice, although they have been delinquent in nothing, may it please you to remove and revoke the said grievances, and may the said Lord Francis without being molested or disputed by anyone be able to possess and hold in peace the said treasurership and his rights.

This petition having been fully understood it was asked of the aforesaid [clerk] who had presented the said petition, whether he had anything else to say or to explain in regard to the premises in behalf of the aforesaid cardinal or the aforesaid Francis, beyond what is contained in the aforesaid petition, or if he wished to set forth further anything that is contained in it etc. He said not, but instantly he asked that the aforesaid Francis be

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[17] Francis Gaetano of Anagni, son of Loffred brother of Boniface VIII, Cardinal of St. Mary's in Cosmedin. He was papal provisor to the archdeaconry of Richmond (Le Neve, iii, 137), which he continued to hold in spite of the efforts of Edward II to present a royal candidate (*Cal. Pat.* 2 Ed. II, 111, 176; 4 Ed. II, 353). The Cardinal was among those named by Edward I from year to year to expedite his business at the court of Rome (*Cal. Cl.* 32 Ed. I, 213; 33 Ed. I, 312 &c.). He continued to have interests in England until his death at Avignon in 1317.

habendam iuxta tenorem collacionis prefati summi Pontificis. Et dictum est ei quod expectet de die in diem quousque etc. Et concordatum est per predictum consilium Regis quod, antequam ulterius inde etc., scrutati sint rotuli et alia memoranda super iure Regis et statu prefati Walteri in hac parte. Et iniunctum est eidem Waltero presenti etc. quod ipse ex parte sua inquirat et scrutari faciat quicquid competere poterit super iure Regis et statu suo etc. et euidencias quas inde etc. ostendat et proponat etc. Et scrutatis memorandis super iure Regis etc., compertum est ad scaccarium in rotulo xxix^{o} Regis nunc rotulo compotorum, videlicet in tercio rotulo compoti Johannis de Lytegreyns[18] de Escaetis Regis ultra Trentam et de exitibus Archiepiscopatus Ebor', sede vacante, quod Archiepiscopatus predictus vacauit per mortem I. le Romeyn,[19] nuper Archiepiscopi ibidem, a xij^{o} die Marcii anno xxiiij^{to}, quo die idem Archiepiscopus obiit, et fuit in manu Regis ab eodem die racione vacacionis illius, et quod idem Escaetor respondit Regi de exitibus inde ab eodem xij^{o} die Marciusque xxij^{o} die Junii anno xxv^{to} antequam Rex restitueret temporalia predicti Archiepiscopatus Magistro Henrico de Newerk[20] Electo in Archiepiscopum etc. Et Walterus de Bedewynde super hoc pro domino Rege et se ipso dicit quod de eo quod predicta Thesauraria Ebor' vacauit tempore vacacionis predicti Archiepiscopatus existentis in manu ipsius Regis, ipse dominus Rex, ad quem collacio tam eiusdem Thesaurarie quam eciam collacio et presentacio aliorum beneficiorum vacancium, vacante sede Archiepiscopatus, quorum collacio seu presentacio spectaret ad Archiepiscopum sede plena, de iure spectabat racione videlicet temporalitatis Archiepiscopatus etc. in manu sua existentis, contulit eandem Thesaurariam eidem Waltero etc.,[21] et sic nec dominus Rex in collacione illa nec ipse Walterus in admissione etc. cuiquam fecerunt iniuriam. Requisitus idem Walterus si quid habeat per quod possit docere de vacacione predicte Thesaurarie tempore predicte vacacionis Archiepiscopatus etc., dicit quod tempore eiusdem vacacionis Archiepiscopatus dominus Bonifacius, tunc summus Pontifex, Iohannem de sancto vico tunc temporis Thesaurarium Ebor' sentencialiter priuauit, tam ab eadem Thesauraria quam a beneficiis suis aliis etc., per quam quidem priuacionem ipsa Thesauraria vacauit, temporalitate Archiepiscopatus etc. existente in manu Regis. Et super priuacione illa ostendit quoddam publicum instrumentum eam testificans in hec verba:

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[18] Escheator north of the Trent, 1295–97 (*Cal. Pat. Rolls,* 140, &c.), escheator south of the Trent in 1298 (*Cal. Cl. Rolls*), and guardian of the archbishopric of York in 1296 during voidance (ibid. 4). The account here referred to is found in the Escheator's Roll 29 Ed. I and in the corresponding Chancellor's Roll.

[19] John le Romein, or Romain, archbishop of York, 1286–96 (Le Neve, iii, 104). The king's disposal of the treasurership was what was known as a collation "in the right of another."

[20] Archbishop Newerk was elected 7 May, 1296, received the royal assent 5 June, and recovered the temporalities 22 June, 1297. Ibid. ii, 104.

[21] Walter was nominated by the king on 1 Nov. 1306 (*Cal. Pat. Rolls,* 467), and was inducted 6 Jan. 1307. Letters mandatory were issued 10 March, 1307 (ibid. 511), and by a precept of 20 March the

admitted and restored to the aforesaid treasurership, to hold according to the tenor of the collation of the aforesaid supreme pontiff. He was told to wait from day to day until etc. And it was agreed by the aforesaid king's council that before anything further in the matter etc., the rolls and other memoranda should be searched in reference to the king's right and the estate of the aforesaid Walter in this part. And the said Walter, who was present etc., was told that he on his part should make inquiries and have search made of whatever may relate to the right of the king and his own estate etc., showing and presenting the evidences which (relate) thereto etc. The memoranda concerning the king's right etc. having been searched, it was discovered at the exchequer in the 29th roll of the present king in the roll of accounts, to wit in the third roll of the account of John Lithgreins[18] for the king's escheats beyond the Trent and for the revenues of the archbishopric of York, during vacancy of the see, that the aforesaid archbishopric was voided by the death of J. le Romeyn[19] late archbishop there, (that is) from the 12th day of March in the 24th year, when the said archbishop died, and it was in the king's hand from the said day by reason of the said vacancy, and that the said escheator answered to the king for its revenues from the same 12th day of March until the 22nd day of June in the 25th year, until the king restored the temporalities of the aforesaid archbishopric to Master Henry of Newerk[20] archbishop-elect etc. Hereupon Walter of Bedewynde in behalf of the lord the king and himself declares that whereas the aforesaid treasurership of York was vacant during the vacancy of the aforesaid archbishopric while it was in the hand of the said king, to whom the collation of the said treasurership as well as the collation and presentation of other vacant benefices during the vacancy of the archepiscopal see rightfully belonged, by reason indeed of the temporalities of the archbishopric etc. being in the king's hand, whereof the collation and presentation belonged to the archbishop when the see was filled, (wherefore) the lord the king himself has bestowed the said treasurership upon the said Walter etc.,[21] so that neither the lord the king in making this collation nor the said Walter in receiving it etc. has done injury to anyone. Having been asked if he has anything to show concerning the vacancy of the aforesaid treasurership during the aforesaid vacancy of the archbishopric etc., the same Walter says that in the time of the aforesaid vacancy of the archbishopric Lord Boniface, then supreme pontiff, judicially deprived John de Sancto Vito, at the time treasurer of York, of the said treasurership as well as of his other benefices etc., so that by this deprivation the said treasurership was vacant, while the temporalities of the archbishopric etc. were in the king's hand. As to that deprivation he displays a certain public instrument testifying to it in the following words:

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sheriffs were ordered not to permit Walter to be molested in his possession and to arrest all persons making citations or appeals against him (ibid. 507). It will be noticed that Bedewynde was nominated to the vacancy created between 12 March

Publicum Instrumentum

Universis presens publicum Instrumentum inspecturis, [Nicholaus Huese][22] Officialis Parisiensis salutem in Domino. Litteras domini . . . Pape non abolitas, non cancellatas, non abrasas nec in aliqua sua parte viciatas, sub veris Bulla et filis sericis pendentibus,[23] prout prima facie apparebat, noueritis nos vidisse formam que sequitur continentes. Bonifacius Episcopus, seruus seruorum Dei, ad perpetuam rei memoriam. In excelso throno, [*Here follows at length the bull of 10 May, 1297,*[24] *excommunicating the Colonna, declaring forfeitures and depriving them of all benefices.*] Transcriptum autem huiusmodi litterarum Apostolicarum ad peticionam venerabilis viri domini Roberti de sancto Iusto,[25] in regno Francie generalis procuratoris Milicie Templi, ac Laurencii de Eboraco in regno Anglie Templi clerici fieri fecimus cuiuslibet iure salvo. In quorum testimonium sigillum Curie Parisiensis una cum signis consuetis infra scriptorum notariorum presentibus est appensum. Datum Parisiis anno Domini M.CC.XC.IX, Indictione tercia decima, die Martis ante festum sancti Vincencii Martiris, videlicet nona decima die Mensis Ianuarii Pontificatus domini Bonifacii Pape Octaui anno quinto.[26] Presentibus fratre Petro de Cormeliis, ordinis fratrum predicatorum, Nicholao dicto Huese, Clerico Curie Parisiensis notario iurato,[27] et pluribus aliis testibus ad premissa.

Et ego Iohannes de Beroto, clericus Ebroycensis diocesis, ad honorem sacrosancte matris ecclesie Romane, sacri eciam imperii urbis alme prefecti publicus auctorite notarius, huiusmodi litteras Apostolicas, quas vidi non abolitas, non cancellatas, non abrasas, nec in aliqua sua parte viciatas, sub veris bulla et filis sericis pendentibus, prout prima facie apparebat, diligenter ac fideliter exemplaui et transcripsi, nichil addens vel subtrahens in diccione vel sillaba, quod mutet sensum aut viciet intellectum, presensque exemplum vel transcriptum per me et Aubertum, infrascriptum notarium, cum ipsis litteris ascultatum, in omnibus cum ipsis concordare repertum, propria manu scripsi, et in hanc publicam formam redegi, meumque signum[28] una cum sigillo dicte Curie et signo dicti A., infrascripti notarii, presentibus apposui, rogatus sub anno, Indictione, mense, die, Pontificatu et loco predictis.[29]

Ego, Aubertus de Matonuilla, clericus Rothomagensis diocesis, Apostolica publicus auctoritate notarius, huiusmodi litteras Apostolicas vidi, tenui et legi non cancellatas, non abolitas, non abrasas, nec in

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1296 and 22 June, 1297, not to any vacancy created in 1304, as has been supposed (*Northern Convocations*, Surtees Soc. 1907, p. 60).

[22] The space for the name is left vacant, but the name of Huese is given at the end of the instrument.

[23] There were two classes of letters, letters of grace and letters of justice. To the former the seal was attached by a silk cord, to the latter by a string of hemp. R. L. Poole, *Papal Chancery* (1915), 115.

[24] The bull may be found in abstract in Potthast, *Regesta*, no. 24513, and in full in Dupuy, *Hist. du différend*, p. 29, and in Muratori, *Antiq. Ital.* vi, 189.

[25] A Templar of this name was one of the knights interrogated in the trials of

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trument

To all who shall inspect the present public instrument [Nicholas Huese][22] official of (the court of) Paris, greeting in the Lord. Know that we have seen the letters of the lord the pope, which have not been revoked, cancelled, abrased nor in any part impaired, with genuine seal and threads of silk appended,[23] containing the following words: "Boniface bishop, servant of the servants of God" etc. [*The Bull 'In excelso throno,' of 10 May 1297,*[24] *excommunicating the Colonna, Peter, James, John and Odo, declaring forfeiture of all their land and possessions subject to the Church of Rome, and depriving them of all ecclesiastical benefices, is here recited at length.*] Moreover the transcript of these apostolic letters we have had made on petition of the venerable Lord Robert de St. Just,[25] procurator general of the Templars in the realm of France, and Lawrence of York clerk of the Temple in the realm of England, saving to each one his right. In testimony of this the seal of the court of Paris together with the customary signs of notaries is appended. Given at Paris in the year of our Lord, 1299, of the thirteenth Indiction, on Tuesday before the feast of St. Vincent the Martyr, that is the 19th day of January in the fifth year of the pontificate of Pope Boniface VIII;[26] in the presence of friar Peter de Corneliis of the order of Preachers, Nicholas called Huese, clerk of the court of Paris, sworn notary,[27] and many others as witnesses to the premises.

And I, John de Beiroto, clerk of the diocese of Evreux, to the honour of the holy mother the Roman Church, and authorized public notary of the aforesaid holy empire of the world, have diligently and faithfully exemplified and transcribed these apostolic letters, which I have seen were not revoked, cancelled, abrased, nor in any other part impaired, with genuine seals and threads of silk appended, as is on the face apparent, adding or subtracting nothing in word or syllable that might change the sense or impair the meaning, and with my own hand have written the present exemplification or transcript, which has been compared with the said letters by me and Aubert the notary herein mentioned, and has been found to agree with them in all points and I have drawn it up in this public form, placing upon it as a testimonial my sign,[28] together with the seal of the said court and the sign of the said A. under the aforesaid year, Indiction, month, day, pontificate, and place.[29]

I, Aubert de Matonville, clerk of the diocese of Rouen, authorized public notary, have seen, read and comprehended these apostolic letters, which have neither been cancelled, annulled, abrased, nor in

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1308. Konrad Schottmüller, *Der Untergang des Templer* (1887), iii, 64, 79, 81.

[26] 19 Jan. 1299.

[27] On papal notaries see Paul Fournier, *Les Officialités au Moyen Age* (1880), ch. vi.

[28] The sign of a notary was a design more or less complicated, more or less artistic, which was his distinctive mark and personal property. Ibid. 45.

[29] The formula of a papal notary substantially as given in Fournier, p. 44.

> aliqua sua parte corruptas, vera bulla plumbea pendente sub filis de serico roboratas, ut prima facie apparebat, presensque transcriptum seu exemplum super eo, cum dictis litteris diligentem faciens collacionem cum Iohanne, suprascripto notario, fideliter ascultaui et legi, et quia utramque in omnibus concordare inueni presentibus me subscripsi signumque meum[28] una cum sigillo dicte Curie Parisiensis ac signo suprascripti Iohannis notarii apposui consuetum rogatus sub anno, Indictione, mense, die, Pontificatu et loco predictis.[29]

Et predictus Walterus dicit quod predictus sextus Idus Maii Pontificatus dicti Pape Bonifacii anno tercio fuit decimus dies eiusdem mensis Maii anno gracie M.CC.XC.VII et regni Regis nunc xxv^{to}, temporalitate predicti Archiepiscopatus tunc existente in manu ipsius domini Regis, adiciens quodqualitercumque predicta Thesauraria racione vacacionis eiusdem per priuacionem predictam collata fuisset per summum Pontificem prefato Theobaldo de Barro, vel alteri cuicumque, hoc domino Regi vel statui quem ipse Walterus modo habet in eadem Thesauraria preiudicari non debet, presertim cum collacio inde tunc temporis de iure corone etc. spectaret ad ipsum Regem, et ipse Rex in hoc precipue prerogetur, quod in huiusmodi que spectant ad ius suum corone etc. nullum labitur[30] ei tempus nec labi debet etc., quominus iura etc., et si ad tempus sopita fuerint vel neglecta, eo non consulto inde vel ea nullatenus aduertente, possit ipsa recuperare et eis uti cum sibi placuerit etc., ipseque Walterus ipsam Thesaurariam habent ex collacione ipsius Regis pro tempore quo de iure etc. spectabat collacio ad ipsum Regem sicut superius est expressum. Preterea quo ad hoc quod in suprascripta peticione continetur quod predictus Theobaldus de Barro predictam Thesaurariam per priuacionem predicti Iohannis de sancto vico etc. possedit ex collacione prefati summi Pontificis pacifice etc., dicit quod licet idem summus Pontifex super induccione eiusdem Theobaldi in eandem Thesaurariam certas deputasset personas executores etc., ipsique executores per littorias comminatorias mandassent ipsum Theobaldum induci in corporalem possessionem predicte Thesaurarie possidende cum omnibus iuribus et pertinenciis suis etc., Decanus et Capitulum predicte ecclesie Ebor', ad quos execucio mandatorum huiusmodi pertinebat, licet mandatis Apostolicis contraire vel eisdem resistere non auderent, aduertentes tamen collacionem predictam et induccionem illam fore in preiudicium domini Regis, cum collacio illa etc. spectaret ad ipsum dominum Regem racione vacacionis etc., tunc publice protestabantur ipsos in eo quod ad ipsos pertinuit non velle preiudicari domino Regi in admissione ipsius Theobaldi, per quod liquet ipsum Theobaldum nullum statum iuris habuisse in eadem Thesauraria etc., super qua quidem protestacione dictorum Decani et Capituli

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[30] On the law of lapse and exception of plenarty see Introd. p. lxv.

> any part damaged, but are confirmed by a genuine lead seal hanging by threads of silk as was evident upon the face; and having with the aid of John, the aforesaid notary carefully collated this transcript or exemplification with the said letters, I have faithfully read and compared them, and since the two are found to agree in all points, in testimony of this I have given my signature and have added my customary sign[28] along with the seal of the said court of Paris and the sign of the aforesaid John, notary, under the aforesaid year, Indiction, month, day, pontificate, and place.[29]

And the aforesaid Walter says that the sixth of the Ides of May in the third year of the pontificate of the said Pope Boniface was the tenth day of the same month of May, in the year of grace 1297, and of the present king's reign 25th, when the temporalities of the aforesaid archbishop were in the hand of the said lord the king, and he adds that notwithstanding that the aforesaid treasurership by reason of the said vacancy (created) by deprivation had been bestowed by the supreme pontiff upon the aforesaid Theobald de Bar or another, this ought not to prejudice the lord the king or the interest which the said Walter now has in the said treasurership, especially because this collation at that time belonged by right of the crown etc. to the king himself, and the king himself in this matter has this especial prerogative that in matters of this kind pertaining to his royal right etc. there is no lapse[30] of time against him, nor ought there to be, so that the rights etc., and if for a time they shall fall in abeyance or be neglected, without his being consulted or in any wise giving attention, he can recover them and use them whenever he pleases etc., and (since) the said Walter holds the said treasurership by collation of the king himself for the time when of right etc. the collation belonged to the king himself just as has been already explained. Furthermore as to the point contained in the aforesaid petition that the aforesaid Theobald de Bar by collation of the aforesaid supreme pontiff possessed in peace the aforesaid treasurership on the deprivation of the aforesaid John de Sancto Vito etc., he says that although the said supreme pontiff upon the induction of the said Theobald into the said treasurership had deputed certain persons as executors etc., and the said executors by comminatory letters had commanded that the said Theobald should be inducted into the corporal possession of the aforesaid treasurership to hold with all its rights and appurtenances etc., (yet) the dean and chapter of the aforesaid church of York to whom the execution of such mandates pertained, although they did not dare to contravene or resist the apostolic commands, believing nevertheless that the aforesaid collation and induction would be to the prejudice of the lord the king, since the collation etc. belonged to the lord the king himself by reason of the vacancy etc., then publicly protested that so far as it pertained to them they were unwilling to prejudice the lord the king by the admission of the said Theobald, whereby it is plain that the said Theobald had no lawful estate

Ebor' idem Walterus ostendit quoddam publicum Instrumentum eam testificans in hec verba:

Instrumentum

In nomine Domini amen, anno eiusdem ab incarnacione M.CC.XC.VII, Indictione undecima, die xviij. mensis Nouembris venerabilis pater dominus H., Dei gracia Electus Ebor', et reuerendi viri Magistri Petrus de Ros,[31] Precentor ecclesie Ebor', ac Thomas de Corbrigg',[32] canonicus eiusdem, apud Wilton in Camera dicti patris, me notario et testibus infrascriptis tunc presentibus, presencialiter constiti, quandam protestacionem nomine suo ac Decani et Capituli ipsius Ebor' ecclesie in scriptis interposuerunt sub hac forma. In Dei nomine amen. Cum sanctissimus in Christo pater dominus Bonifacius Papa Octauus Iohannem de Calumpna, Canonicum et Thesaurarium ecclesie Ebor', Thesauraria eadem ac canonicatibus, prebendis, dignitatibus, personatibus et aliis beneficiis ecclesiasticis, cum cura vel sine cura, que in quibus ius habebat ecclesiis, Apostolica priuauerat auctoritate, ac canonicatum prebendam et thesaurariam eiusdem Ebor' ecclesie sic vacantes cum plenitudine iuris canonici ac omnibus iuribus et pertinenciis suis Theobaldo, Germano nobilis viri Comitis Bariducis, eadem auctoritate contulerat atque prouiderat de illo preposito Lausanensi et Magistro Octobono de Placencia, litterarum contradictarum auditore,[33] Canonico Suesion' ecclesiarum, ac Officiali Linc' executoribus per litteras speciales super hoc datas dictisque preposito et Magistro Octobono suis separatis processibus Archiepiscopo et venerabilibus ac discretis viris Decano et Capitulo ac singulis canonicis Ebor' ubicumque constitutis sub magnis comminacionibus et penis districcius dantibus in mandatis ut ipsi prout ad eos et eorum quemlibet communiter vel diuisim pertinet infra sex dies, quorum duos pro primo, duos pro secundo, et residuos duos uniuersis et singulis pro tercio et peremptorio termino assignarunt, recipiant eundem dominum Theobaldum, vel procuratorem suum eius nomine in suum et dicte Ebor' ecclesie canonicum, thesaurarium atque fratrem, eique vel procuratori suo eius nomine, stallum in choro et locum in capitulo sicut canonico et thesaurario assignent, ac in corporalem possessionem canonicatus, prebende et thesaurarie predictorum, iurium et pertinenciarum earundem inducant, et quantum in eis est defendant inductum, faciendo eidem domino T., vel procuratori suo eius nomine, de ipsorum canonicatus, prebende et thesaurarie fructibus, redditibus, prouentibus et iuribus uniuersis prout ad eos pertinet integre responderi. Nos, Decanus et Capitulum predicte Ebor' ecclesie perpendentes priuacionem de qua premittitur eo tempore factum fuisse quo serenissimus princeps dominus Edwardus, Dei gracia Rex Anglie illustris, Archi-

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[31] or Ross, precentor of York since 1289. Le Neve, iii, 154.

[32] Prebendary of Stillington in 1273, of Osbaldwick in 1279, chancellor of York in 1283 and archbishop 1300–04. Le Neve, iii, 206, 212.

[33] *Audientia Litterarum Contradictarum*, a department of the papal chancery in

in the said treasurership etc.; as to this protestation of the said dean and chapter of York the said Walter exhibits a certain public instrument testifying to it in the following words:

nstrument

In the name of God amen, in the year of Our Lord 1297, on the 18th day of November in the eleventh Indiction the venerable father Lord H., by the grace of God (archbishop-)elect of York, and the reverend Peter of Ros,[31] precentor of the church of York, and Thomas of Corbridge,[32] canon of the same, being present at Wilton in the chamber of the said father, in the presence of myself as notary and the witnesses herein mentioned, interposed in the name of themselves and the dean and chapter of the said church of York a written protestation in the following words: In the name of God amen. Since the most holy father in Christ Pope Boniface VIII by apostolic authority had deprived John de Colonna, canon and treasurer of the church of York, of the said treasurership and canonries, prebends, dignities, personatus and other ecclesiastical benefices, (whether) with the cure (of souls) or without, which he held as his right in these churches, and by the same authority had bestowed the canonry, prebend and treasurership of the said church of York thus vacant, with the plenitude of canonical right and their rights and appurtenances, upon Theobald brother of the count of Bar le Duc, and had provided him to this by special letters concerning this matter directed to the provost of Lausanne and to Master Ottobon of Piacenza, auditor of contradicted letters,[33] canon of the church of Soissons, and to the official of Lincoln, as executors, and the said provost and Master Ottobon by separate processes to the archbishop and the venerable and discreet dean and chapter and all the canons of York wherever they might be under great threats and dire penalties gave commands that so far as it pertains to them in common or to each of them individually, within six days, whereof were assigned two for the first, two for the second and the remaining two for the third and peremptory term, they should receive the said Lord Theobald or his proctor in his name as their canon, treasurer and brother in the said church of York, and should assign to him as canon and treasurer, or to his proctor in his name, a stall in the choir and place in the chapter, and should place him in material possession of the aforesaid canonry, prebend and treasurership, with the said rights and appurtenances, and having inducted him they should so far as lay in their power defend him, so far as they can causing answer to be made entirely to the said Lord T., or his proctor in his name, for all fruits, revenues, incomes and rights of the aforesaid canonry, prebend and treasurership. We, the dean and chapter of the aforesaid church of York, considering that the deprivation described above was made at the time when the most serene prince

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which letters were examined before they were registered and passed on to the parties interested. Poole, *Papal Chancery*, p. 189.

> episcopatum Ebor' per mortem bone memorie I. Archiepiscopi vacantem in manu sua habuit et tenebat, protestamur publice in his scriptis quod per admissionem dicti Theobaldi vel procuratoris sui eius nomine ad canonicatum, prebendam et thesaurariam predictos, occasione senten-ciarium in dictorum executorum processibus contentarum per nos faciendam non intendimus, nec eciam volumus, quantum in nobis est, iuri predicti domini Regis in collacione, donacione vel presentacione dictarum Thesaurarie et Prebende aliqualiter competenti in aliquo derogare, quinimmo quod omne ius suum quatenus de iure vel consuetudine saluari possit vel debeat in hoc casu saluum existat, admissione nostra huiusmodi non obstante. Actum anno ab incarnacione M.CC.XC.VII, Indictione undecima, die xviij° mensis Nouembris, presentibus Magistro Hugone de Menigthorpe, Rectore ecclesie de Bulmere, Ebor' diocesis, Willelmo, Rectore ecclesie de Botilsford, Lincoln' diocesis, Henrico de Baispole et Iohanne de Iakeslay, clericis, testibus vocatis et rogatis. Et ego, Adam de Louther, Karliol' diocesis, sacri imperii publicus auctoritate notarius, ac in presenti notarius venerabilis Capituli beati Petri Ebor' interpositioni protestacionis predicte unacum testibus supradictis presens interfui et eam scripsi, publicaui meoque signo signaui Rogatus.

Et quo ad hoc quod similiter in predicta peticione continetur quod dominus Rex sciuit dictum Theobaldum de Barro habuisse possessionem dicte Thesaurarie et quod inde fauit ei etc. concedendo ei litteras de attornatu super illa, et quod manutenuit dictum Franciscum Gaytanum in possessione inde etc. concedendo ei consimiles litteras de attornatu etc., dicit idem Walterus quod eedem littere non derogant iuri Regis quoad collacionem etc., cum titulum aliquem possessionis non tribuant vel confirment possessionem etc., nec statui ipsius Walteri etc., cum ipse nullum statum clamet inde nisi ex collacione Regis pro tempore quo collacio de iure spectauit ad Regem, sicut superius declaratur, et petit consuli pro domino Rege et ipso Waltero in hac parte et inde fieri secundum tenorem mandati ipsius Regis inde superius annotati.

Et visis euidenciis predictis, auditisque racionibus prefati Walteri in premissis pro iure Regis et statu suo propositis etc., habitis inde deliberacione et tractatu diligentibus, quia constat dominum Regem de iure suo corone etc. conferre debere beneficia vacancia et eciam presentare vacante Archiepiscopatu etc. quorum quidem beneficiorum collacio sive presentacio spectarent ad Archiepiscopum sede plena etc., et quod nullum tempus labitur domino Regi etc. in hiis que ad ius suum corone etc., nec deductum est vel ostensum ex parte dicti Francisci quin dicta thesauraria vacauit

> Lord Edward, by the grace of God illustrious king of England, had and was holding in his hand the archbishopric of York which was avoided by the death of J. Archbishop of blessed memory, (we) do publicly protest in this writing that by the admission of the said Theobald or his proctor in his name to the canonry, prebend and treasurership, which was required of us by reason of the sentences contained in the processes of the said executors, we do not intend, nor do we even wish, so far as lies in us, in any wise to derogate from the right which is anyhow sufficient of the aforesaid lord king in regard to the collation, donation or presentation of the said treasurership and prebend; nay more, (we say) that all his right in this case remains safe, so long as it can or ought to be saved by right and custom, notwithstanding this admission of ours. Done in the year of Our Lord 1297, 18 November, in the eleventh Indiction, in the presence of Hugh Menigthorp, rector of the church of Bulmer in the diocese of York, William, rector of the church of Bottelsford in the diocese of Lincoln, Henry Baispole and John Jakesley, clerks, who were called and required as witnesses. And I, Adam Lowther of the diocese of Carlisle, by authority public notary of the sacred empire and at present notary of the venerable chapter of St. Peter's York, was present during the statement of the aforesaid protestation together with the aforesaid witnesses, and having written and published it, I have signed it with my sign, by request.

And as to the point that is similarly contained in the aforesaid petition that the lord the king knew that the said Theobald de Bar had possession of the said treasurership and that (the king) favoured him etc. granting letters of attorney in regard to it, and that he maintained the said Francis Gaetano in possession of it etc. granting him similar letters of attorney etc., the said Walter says that these letters do not derogate from the king's right to the collation etc. since they do not assign any title of possession nor confirm possession etc., nor (do they derogate from) the estate of the said Walter, since he claims no estate in regard to it except by collation of the king at the time when the collation rightfully belonged to the king, as has been declared before, and (so) he asks that there be counsel in behalf of the king and the said Walter in this part and that action be taken according to the tenor of the said king's mandate with regard to it as noted above.

The foregoing evidences having been viewed and the arguments of the aforesaid Walter setting forth the king's right and his own estate etc. having been heard, after holding diligent deliberation and discussion of the matter, since it is evident that the lord the king by the right of his crown etc. should bestow vacant benefices and also during the vacancy of the archbishopric should present the benefices the collation or presentation of which belongs to the archbishop when the see is filled etc., and because there is no lapse of time for the lord the king etc. in regard to these things which (pertain) to his royal right etc., nor has it been deduced or shown on

tempore dicte vacacionis Archiepiscopatus, pro quo dominus Rex eam contulit dicto Waltero, ipseque Walterus nullum alium statum inde clamat nisi ex ipsa eadem collacione etc. videtur consilio Regis ipsum Walterum ius habere in possessione sua inde etc. Et super hoc concordatum est quod predictus Franciscus nichil recuperet per peticionem suam predictam. Et iniunctum est predicto Waltero, sub omni eo quod Regi forisfacere poterit, quod cum tota diligencia et toto posse suo manuteneat et defendat ius domini Regis pro collacione predicta, et possessionem suam in ipsa Thesauraria, et eciam prosequatur versus dominum Regem et consilium suum super auxilio inde habendo etc. cum viderit oportunum. Concordatum est eciam quod fiant ei littere Regis de Cancellaria quecumque fuerint necessarie etc. ad defensionem possessionis sue etc. Et rescribitur domino Regi super premissis in hec verba:

> Sire, en dreit de ceo qe vous nous maundastes, qe oye la moustraunce qe lonurable pere en dieu Pierres par la grace de dieu Euesqe de Sabyne, Cardinal de la seinte eglise de Rome voudreit faire deuaunt nous et les autres de vostre consail, pur celui qe fu Tresorier en leglise Deueruwyk, en dreit de meismes la Tresorie, nous vous fesoms sauer qe oye la moustraunce qe un clerk depar le dit Cardinal ad faite deuant nous et voz Justices et les autres de vostre consail a Loundres, et bien et diligeaument examinee la dite busoigne, Nous trouuoms qe la dite Tresorie fu vacaunte en le temps qe lerceuesche Deuerwyk fu vacaunte par la mort Johan le Romayn, aucun temps Erceuesqe illoqes, et qe la temperaute de meismes lerceuesche fu en vostre mayn. Et pur ceo, sire, qe la collacion des benefices appendent a vous en tieux vacaciouns, et qe nul temps ne court a vous en tieu cas, semble a nous et a voz Justices et as autres de vostre consail, qe la collacion de la dite Tresorie appendeit a vous de dreit de vostre Coroune, et qe vous la poiez et deuez doner a vostre volente, sicome vous auetz fait sauntz tort faire a nuli, et qe vostre doun, sire, est resonable, pur le dreit de vostre Coroune. Sire, nostre Seignour vous donit bone vie et longe, et accresse vos honeurs. Done a Westminster le xxij. jour du Moys de Juyn.

Postea dominus Rex Edwardus, filius huius Regis, mandauit hic breue suum de priuato sigillo suo quod est inter communia de anno secundo in hec verba:

> Edward par le grace de Dieu Roi Dengleterre, seignour Dirlaunde et Ducs Daquitaigne, au lieu tenaunt nostre Tresorier et as Barouns de nostre Eschekier salutz. Nous vous maundoms qe vous facez sercher es Roules de nostre dit Eschekier tut le Record et le proces qe feust nadgaires deuaunt le Tresorier et les Barons del Eschekier et les autres du

the part of the said Francis that the said treasurership was not vacant during the said voidance of the archbishopric, wherefore the lord the king bestowed it upon the said Walter, and since Walter himself claims no other estate in regard to it than that of the said collation etc., (therefore) it seems to the king's council that the said Walter is right in his possession thereof etc. Hereupon it was agreed that the aforesaid Francis should recover nothing by his aforesaid petition. And it was enjoined upon the aforesaid Walter under forfeiture of all that he can forfeit to the king, that with all diligence and with all his might he should maintain and defend the right of the lord the king to the aforesaid collation and his own possession of the said treasurership, and also that he should sue to the lord the king and his council for aid in the matter etc. whenever it should seem expedient. It was also agreed that letters should be issued to him out of the chancery, whatever might be necessary etc. for the defense of his possession etc. And report is to be made to the lord the king upon the premises in the following words:

> Sire, in regard to what you have commanded us, that having heard the statement made before us and the others of your council by the honourable father in God, Peter, by the grace of God bishop of Sabina, cardinal of the holy church of Rome, in behalf of the late treasurer of the church of York, in regard to the right to the said treasurership, we inform you that having heard the statement made by a clerk in behalf of the said cardinal before us and your justices and the others of your council at London, and having examined the said matter well and diligently, we find that the said treasurership was vacant during the voidance of the archbishopric of York caused by the death of John le Romein, formerly archbishop there, and that the temporalities of the said archbishopric were (then) in your hand. And because, Sire, the collation of benefices during such vacancies belongs to you, and because no lapse of time affects you in such case, it seems to us and to your justices and others of your council that the collation of the said treasurership belonged to you by right of your crown, and that you can and should give it at your pleasure, just as you have done without wronging anyone, and that your gift, Sire, is reasonable according to the right of your crown. May the Lord, Sire, grant you good long life, and increase your honours. Given at Westminster the 22nd day of June.

Afterwards the Lord King Edward, son of the said king, sent here his writ under the privy seal which is among the common matters of the second year and runs as follows:

> Edward, by the grace of God king of England, lord of Ireland and duke of Aquitaine, to the deputy of our treasurer and the barons of our exchequer greeting. We command you to make search in the rolls of our said exchequer for all the record and process that was recently before the treasurer and barons of the exchequer and the others of the

consail nostre chier pere, qui Dieu assoille, touchaunt la Tresorie de laglise seint pere Deurwyk, la quele Tresorie nostre dit pere dona a nostre cher clerc Wautier de Bedewynde, et meismes le Record et proces od tut qant qe y appent facez auoir au dit Wautier suz le seal nostre Eschekier auauntdit. Done suz nostre priue seal a Leghton Busard le xviij. jour de Juyn lan de nostre regne secound.

Pretextu cuius breuis iste processus coram Iohanne de Sandale,[34] tenenentum locum Th[esaurarii], Thoma de Cantebr',[35] I. de Foxle, Magistro Ricardo de Abyndon et Magistro I. de Euerdon, Baronibus de Scaccario,[36] recitatus in scaccario predicto die Mercurii in crastino Natiuitatis sancti Iohannis Baptiste[37] anno regni Regis Edwardi, filii huius Regis, secundo. Concordarunt ipsi tenens locum Thesaurarii et Barones quod idem processus transcribatur et sigillo dicti scaccarii consignetur, et tradatur prefato Waltero in testimonium premissorum penes se habendus. Et prefatus processus transcribitur, consignatur et predicto Waltero liberatur etc.

REX *v.* GERDESTON[1]

1315 Placita coram Domino Rege in Parliamento suo[2] apud Westmonasterium in presencia ipsius Domini Regis die et Anno infrascriptis.

Norff. [3] Magister Thomas de Gerdeston[4] Archidiaconus Norffolcie et Magister Ricardus de Ryngestede[5] Officialis[6] eiusdem Archidiaconi coram ipso Domino Rege et consilio suo in Parliamento suo apud Westmonasterium die Mercurii in Vigilia Ascensionis domini Anno domini Regis nunc octauo[7] aculpati et ad racionem positi de eo quod cum non liceat alicui Citaciones aut[8] summoniciones cuicunque facere infra Palacium ipsius Domini

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[34] A king's clerk, chancellor of the exchequer 1307-08, deputy treasurer 1308-10 (*Cal. Pat.* 1 Ed. II, 6); in 1310-11 he was treasurer of the exchequer (ibid. 234), again in 1312 he is supplying the place of treasurer, and in 1313 once more treasurer (*Cal. Pat.* passim).

[35] A baron of the exchequer 1307-10. *Cal. Pat. Rolls,* 7, 265.

[36] List of barons of the exchequer. Madox, ii, 325, 326.

[37] 25 June, 1309.

[1] This record which was first found in Hale's Collection has been collated with the original in *Coram Rege Roll,* Easter, 8 Ed. II, no. 220, m. cxi.

[2] Easter Term 8 Ed. II began on Wednesday, 9 April, and ended on Monday, 5 May, 1315.

[3] An abridgement of the first part of this case is printed in *Placitorum Abbreviatio* (Record Commission, 1811), p. 321. It is believed, according to the preface, to have been "made by Mr. Arthur Agard and other keepers of such Records during the reign of Queen Elizabeth" (ib. p. ix). In his *Third Institute,* under the heading "Misprision," Sir Edward Coke cites the case, and gives an abridgement of the judgment (ed. 1797, f. [141]); but his rendering of the name as "Nyerford," printed in the *Plac. Abb.* as "Neirford," and the matter of his abridgement, which substantially varies from that of Agard, shew that he followed another transcriber, incorrect as was Agard. A third transcript, complete as to contents but more inaccurate than that of Agard, exists among a number of cases before the king and council, most of which have since been printed, in the Hale Collection of MSS. in Lincoln's Inn Library, vol. 42. The case is not printed in the *Rotuli Parliamentorum.* The original is on one

council of our dear father, on whom may God have mercy, in regard to the treasurership of the church of St. Peter's in York, which treasurership our said father gave to our dear clerk Walter of Bedewynde, and the said record and process with all that belongs to it do you give over to the said Walter under the seal of our aforesaid exchequer. Given under our privy seal at Leighton Busard on the 18th day of June in the second year of our reign.

In consequence of this writ the said process was read before John of Sandale,[34] deputy-treasurer, Thomas Cantebrigg,[35] John Foxle, Master Richard Abingdon and Master J. Everdon, barons of the exchequer,[36] in the exchequer on the aforesaid Wednesday the day after the Nativity of John the Baptist,[37] in the second year of the reign of King Edward, son of the late king. The said deputy treasurer and barons agreed that the said process should be transcribed, and sealed with the seal of the said exchequer, and given to the aforesaid Walter to keep for himself as a testimonial of the premises. So the aforesaid process is transcribed, sealed, and delivered to the aforesaid Walter etc.

REX *v.* GERDESTON [1]

1315 Pleas before the Lord the king in his Parliament [2] at Westminster in presence of the Lord the king in person on the day and year within written.

[3] Master Thomas of Gerdeston,[4] archdeacon of Norfolk and Master Richard of Ryngestede [5] Official [6] of the same archdeacon were charged and put to answer before the king in person in his council in his parliament at Westminster on Wednesday in the vigil of the Ascension of the Lord in the eighth year of the lord the king that now is [7] for that, although it is not lawful to any one to make citations or summons to any person within the palace of him the lord the king at Westminster, both by reason of the king's

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membrane almost at the end of the Coram Rege cases on the Roll. No other case before the council on this roll has been found.

[4] This name appears in Le Neve as Thomas Kerdeston, arch-deacon of Norfolk in 1297, 1312 and 1315. *Fasti Eccl. Angl.* ii, 482. Kerdeston, Kerdiston or Cardeston is a parish in the Hundred of Eynsford in North Norfolk which gave its name to the lords of the manor, who held it at this time. The same family were then also landowners at Wramplingham, East Riston, Claxton, Helgheton and Crostwick, all in the county. F. Blomefield, *Hist. of Norfolk*, viii, 241, 243; ix, 338; x, 112, 135; xi, 8. The name is erroneously transcribed Gerdestan in *Plac. Abb.*

[5] Also a Norfolk manorial name. The two parishes of Great and Little Ringstead are in the Hundred of Smithdon in N. W. Norfolk.

[6] "Official; in the Church of England the presiding officer or judge of an archbishop's, bishop's, or archdeacon's court." *Oxford Engl. Dict.*

[7] Wednesday, the vigil of the Ascension, 8 Ed. II, fell on 30 April, 1315. Rymer's *Fœdera* shews that Edward II was at Westminster both on 20 April and 4 May. *Syllabus* of Sir T. D. Hardy, i, 185. On the other hand, the parliament which had met on 20 January, 1315, did not sit after 9 March, so that the phrase "*in Parliament suo*" had become common form. See C. H. Parry, *Parliaments and Councils of England* (1839), p. 78.

[8] The *Placitorum Abbreviatio* incorrectly reads "*citatores ante.*"

Regis Westmonasterii tam racione Regie dignitatis et Corone sue quam racione exempcionis eiusdem loci qui quidem locus ab omni Jurisdiccione ordinaria exemptus est et immunis per libertates Ecclesie Westmonasteriensis per summos pontifices eidem Ecclesie concessas[9] predicti Archidiaconus et Officialis octauo die Marcii vltimo preterito[10] ipso domino Rege in Palacio suo predicto existente[11] et Parliamentum suum ibidem tenente citarunt[12] et per quemdam Robertum de Capella de Jakesle[13] Citari fecerunt Johannam de Barro[14] Comitissam Warrenne neptem ipsius Domini Regis tunc ibidem in Comitiua Domine Regine consortis[15] Domini Regis existentem videlicet in capella bassa[16] predicti Domini Regis in Palacio predicto, quod ipsa Comitissa compareret coram Officiali predicto vel eius Commissario in ecclesia parochiali beati Nicholai de Brackeden[17] die veneris proxima post festum beati Gregorii Pape proximo sequente post diem citacionis predicte[18] ad respondendum Matillidi de Neyrford[19] in causa matrimonii et divorcii que coram dicto Officiali autoritate ordinaria[20] procedente vertebatur inter prefatam Matillidem actricem ex parte vna et Iohannem comitem de Warrenna et prefatam Comitissam ex altera que quidem citacio loco et tempore predictis vt predictum est facta per ipsos Archidiaconum et Officialem racionibus predictis facta fuit in dedecus ipsius domini Regis manifestum et contemptum ipsius[21] viginti mille librarum et contra Coronam et dignitatem suam &c. Et predicti Archidiaconus et Officialis dicunt quod veritatem facti sui in hac parte coram ipso domino Rege et consilio suo fatebuntur et cognoscent. Et idem Archidiaconus pro se dicit

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[9] The earliest papal bulls upon which were founded the claims of the Abbey of Westminster to exemption from episcopal jurisdiction dated from John XV (986–999) but were forgeries of a later period. Nevertheless, in 1222, a controversy on this subject which had arisen with Eustace, bishop of London, was decided in favour of the Abbey by Cardinal Stephen Langton. It is curious that the draughtsman did not mention the charter of Edward the Confessor of 1045, which "specially guards against episcopal intrusion," for though it also is apocryphal, it is probably as ancient as the twelfth century. See preface to John Flete's *History of Westminster Abbey*, edited by J. A. Robinson (1909), pp. 14–17.

[10] The day before the dissolution: see n. 7, *supra*.

[11] This is probably accurate, and not common form. Rymer's *Fœdera* shew that Edward II was at Westminster on 10 March, 1315. Hardy's *Syllabus*, i, 185. Coke, after setting out his abridgement of the judgment, adds: "Here two things are principally to be observed; first, that this royall priviledge is not only appropriated to the palace of Westminster, but to all the king's palaces, where his royall person resides: Secondly, that this priviledge is to be exempted from all ecclesiasticall jurisdiction." (3 Inst. p. [141].)

[12] At this point the *Plac. Abb.* breaks off till "*Johannam.*"

[13] The Rectory of Yaxley in Suffolk was appropriate to the Priory of Eye (Dugdale, *Monast.* [ed. 1846], iii, 409). I have not found any distinct mention of a chapel, but there was a "Gild of St. Thomas the Martyr" here, which not improbably had a chapel either within or outside the parish church. 10th Rep. Hist. MSS. Comm. pt. iv, p. 464.

[14] Joan of Bar, only daughter of Henry III, Count of Bar, by the lady Eleanor Plantagenet, first daughter of Edward I. She was, therefore, niece of Edward II. She married on 20 May, 1306, John de Warenne, known indifferently as Earl Warenne, Earl of Surrey and Earl of Sussex, he being then aged twenty years. As Joan de Bar must have been born between 1293, the year of her mother's marriage,

dignity and of that of his crown as also by reason of the exemption of the same place, which place indeed is exempt and immune from all jurisdiction of the ordinary through the liberties of the Church of Westminster granted to the same church[9] by the chief pontiffs, the aforesaid archdeacon and official on the eighth day of March last past,[10] the king in person being in his palace[11] aforesaid, and there holding his parliament, cited and by a certain Robert of the Chapel of Jakesle[13] caused to be cited Joan of Barr,[14] Countess Warenne, niece of him the lord the king, she then being there in company of the lady the queen consort[15] of the lord the king namely in the low chapel[16] of the aforesaid lord the king in the palace aforesaid, ordering the countess to appear in person before the official aforesaid or his commissary in the parish church of Saint Nicholas of Brackeden[17] on the Friday next after the feast of St. Gregory, Pope, next following the day of the citation aforesaid[18] to respond to Maud of Neyrford[19] in a cause of matrimony and divorce which was being sued before the said official by authority of the Ordinary's process[20] between the aforementioned Maud plaintiff of the one part and John Earl Warenne and the countess aforementioned of the other part, which citation indeed was made in the place and at the time aforesaid, as is aforesaid, by them, the archdeacon and official, for the reasons aforesaid to the manifest despite of the lord the king himself and in his contempt (to the penalty) of twenty thousand pounds and against his crown and dignity &c. And the aforesaid archdeacon and official say that they will declare and admit the truth of what they did in this behalf in presence of the lord the king in person and his council, and the same archdeacon for himself says that he himself never ordered issue of the citation

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and 1295, that of her mother's death, she could not have been more than thirteen years of age at the time of her marriage. The earl "ineffectually endeavoured to obtain a divorce on ground of a precontract with Maud of Nerford, by whom he had many children." G. E. Cokayne, *Complete Peerage* (ed. 1896), vii, p. 328, sub. "Surrey."

[15] Isabella, daughter of Philip the Fair of France.

[16] The "Crypt or sub-chapel" of St. Stephen's. See E. W. Brayley and J. Britton, *History of the Palace of Westminster* (1836), p. 449. The chapel itself was probably either ruinous or under repair at this time. Ibid. p. 120.

[17] Bracon Ash, six miles southwest of Norwich, was generally known as Brakene at this time. F. Blomefield, *Hist. of Norfolk* (1806), v, 83. The church is dedicated to St. Nicholas.

[18] St. Gregory's day was 12 March, which in 1315 fell on a Wednesday. The citation was therefore for Friday, 15 March, a week's notice.

[19] The *Plac. Abb.* here interpolates "filie Willelmi de Neirford," words not in the original Roll. This lady, according to Blomefield, vi, 230, was daughter of Sir William Nerford and his wife Patronilla de Vaux, a considerable heiress in Norfolk. The seat of the family was at Narford, four miles N. W. of Swaffham.

[20] I. e. of the archdeacon. "Not only the jurisdiction he enjoys is in the eye of the law ordinary jurisdiction, as being in reality a branch of episcopal power, but he himself is properly *ordinarius*, and is recognized as such by the books of common law." Sir R. Phillimore, *Ecclesiastical Law* (1878), i, 239. Also E. Gibson, *Codex* (2nd ed. 1761), p. 970.

[21] The *Placitorum Abbreviatio* gives a summary, rather than a transcript, ending at "*ipsius*" and, after omitting the whole of the defendants' case, concludes with the judgment, which it also summarizes.

quod ipse Citacionem predictam nunquam fieri precepit nec per ipsum aut ipso sciente seu mandante facta fuit nec processus[22] aliquis super negotio predicto vnquam coram ipso movebatur vel coram officiali suo prenominato per mandatum ipsius Archidiaconi seu ipso sciente quousque Episcopus Norwycensis[23] cui Dominus Rex mandaverat quod ipse Episcopus processum negocii predicti ipsi Domino Regi mandaret ipsi Archidiacono de prefato mandato Domini Regis constare fecit. Et dicit quod ipse hoc audito incontinenter mandavit Officiali suo predicto inhibendo[24] ne de negocio predicto coram ipso agitando se vlterius intromitteret. Et quod ita sit pretendit se acquietare coram ipso Domino Rege per prefatum Episcopum aut alio modo legitimo quocumque ad voluntatem ipsius Domini Regis.

Et predictus Officialis pro se dicit quod predicta Citacio que per ipsum dicitur facta fuisse secundum quod ei imponitur nunquam per ipsum preceptum seu mandatum suum in predictis loco et tempore faciendi facta fuit nec ipse virtute seu racione citationis illius in negocio predicto in aliquo processit processum aliquem continuando aut aliquid in negocio illo attemptando postquam per predictum Archidiaconum superiorem suum sibi mandatum fuit et inhibitum ne de dicto negocio coram ipso agitando se vlterius intromitteret &c. Et super hoc ex parte ipsius Domini Regis porrectus est quidam processus negocii predicti coram predicto officiali habitus et per Episcopum Norwycensem ipsi Domino Regi per mandatum ipsius Regis missus in quo continentur subscripta videlicet quod quidam Robertus dictus de Capella de Jakesle Clericus Lincolniensis Diocesis supradicto octauo die mensis Marcii in presencia Roberti de Cokerton clerici Dunelmensis diocesis[25] publici notarii autoritate imperiali[26] testatur per publicum instrumentum suum quod quidam Robertus dictus de Capella de Jakesle clericus Lincolniensis diocesis talia verba proposuit die predicto ante horam nonam dicti diei in capella bassa in palacio domini Edwardi dei gracia Regis Anglie illustris apud Westmonasterium Londonensis diocesis coram nobili muliere Domina Johanna de Barro tunc ibidem presente. Innotescat vobis domina Johanna de Barro et pro constanti sciatis quod vos ad instanciam Matillidis de Neyrford filie quondam Willelmi de Neyrford Militis defuncti Norwycensis diocesis per

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[22] "Sometimes that only is called The Processe by which a man is called into the Court, because it is the beginning or the principal part thereof, by which the rest of the business is directed." J. Cowel, *Interpreter*, s. v. processe.

[23] This was John Salmon, bishop of Norwich, 1299–1325. He did not become chancellor till 1319. He was a faithful adherent to and much trusted by Edward II. By the eighth Constitution of Clarendon, passed in 1164, appeal lay from the archdeacon to the bishop. O. J. Reichel, *Manual of Canon Law* (1896), ii, 332.

[24] "Inhibition is most commonly a Writ issuing out of a higher Court-Christian to a lower and inferior upon an Appeal." Cowel, *Interpreter*, s. v.

[25] There is a township of Cockerton in the parish of Darlington, South Durham.

[26] "We call him a Notary that attests deeds or writings to make them authentick in another country." Cowel, *Interpreter*, s. v. The Notaries Imperial were a recognized class, but it would seem that they were also sworn and admitted here. See *Coventry Letter Book* in E. E. T. S. (1907) pt. i, p. 59. There were also Papal Nota-

aforesaid and that neither by him nor with his knowledge or at his mandate was it done nor was any process[22] made or set in motion touching the matter aforesaid either before him or before his official aforenamed by his mandate as archdeacon or with his knowledge until the time that the bishop of Norwich,[23] whom the lord the king commanded that he, the bishop, should send the process of the matter aforesaid to himself the lord the king, certified him, the archdeacon, of the aforementioned commandment of the lord the king. And he says that as soon as this was brought to his hearing he incontinently sent it to his official aforesaid inhibiting[24] him further to meddle in the matter aforesaid by handling it before him. And because this is so he claims his acquittal before the lord the king in person through the aforementioned bishop or in any other lawful way at the will of the lord the king himself.

And the aforewritten official for himself says that the aforesaid citation said by him to have been made as is charged upon him never was made by him, his precept or mandate that it should be made at the aforesaid place and time nor did he himself by virtue or by reason of that citation proceed in the business aforesaid in any particular either by continuing any process or by endeavouring anything in the matter after the mandate had been received by him through the aforesaid archdeacon his superior, and the inhibition issued against his further meddling in the said business by handling it before himself &c. And thereupon on the part of the lord the king himself there was set out at length a certain process of the matter aforesaid held in presence of the aforewritten official and delivered by the bishop of Norwich to the king in person by command of the king himself, in which are contained the underwritten words, namely, that a certain Robert, called of the Chapel of Jackesle, a clerk of the diocese of Lincoln on the abovesaid eighth day of the month of March in presence of Robert of Cockerton a clerk of the diocese of Durham,[25] notary public by imperial authority,[26] witnesses by his public instrument that a certain Robert, called of the chapel of Jackesle, a clerk of the diocese of Lincoln, on the day aforesaid before the ninth hour of the said day in the low chapel in the palace of the lord Edward by the grace of God the illustrious king of England at Westminster in the diocese of London in presence of a noble woman the Lady Joan of Barr then being there uttered the following words: Lady Joan of Barr, Ye are to know and be certified that at the instance of Maud of Neyrford daughter of the former William of Neyrford knight, deceased, of the diocese of Norwich ye have been publicly and solemnly summoned and peremptorily cited (by reason of) a public citation issued in the parish church of Methelwoode of the diocese aforementioned and in the manor of

nies. Spelman says "Legi (sed locum rescio) Notarios publicos Bulla papali hic in Anglia institutos esse tempore Regis Ricardi 2, sed hos forte in re Ecclesiae." *Glossarium* (1687) s. v. Notarius.

decanum de Bradewyce[27] dicte diocesis publice et solempniter estis vocata et peremptorie citata publice citacionis edicto in ecclesia parochiali de Methelwode diocesis prefate et in manerio nobilis viri Johannis Comitis de Warrenna ibidem proposito quod compareatis coram discreto viro domino[28] Officiali domini Archidiaconi Norffolcie vel eius Commissario in Ecclesia parochiali beati Nicholai de Brakeden dicte diocesis die Veneris proxima post festum beati Gregorii Pape in causa matrimonii et divorcii que coram dicto domino officiali autoritate ordinaria procedente vertitur seu verti speratur inter ipsam Matillidem actricem ex parte vna et nobilem virum Johannem Comitem de Warrenna et vos reos ex altera facturi et recepturi quod Juris fuerit et racionis. Acta sunt hec die mense loco prefatis, presentibus Waltero de Brauteston Johanne de Holme clericis et aliis testibus ad premissa vocatis specialiter et rogatis.

Continetur eciam in eodem processu quod post citacionem predictam predicte Comitisse factam vt predictum est, dictus Officialis eo quod dicta Comitissa coram ipso die predicto non comparuit reputauit ipsam Comitissam contumacem[29] et iterato decrevit fore vocandam in certis maneriis et ecclesiis parochialibus nominatis in dicto processu si personaliter posset inveniri, aut si dicta Comitissa aut ipsius procuratores non invenirentur copia libelli predicte Matillidis de Neyrford versus predictam Comitissam coram ipso Officiali porrecti super magna altaria Ecclesiarum illarum apponeretur et in hostiis earundem affigeretur[30] Et quod publice Citacionis edicto in Maneriis et Ecclesiis predictis proposito citaretur quod compareret coram ipso Officiali vel ejus Commissario in ecclesia parochiali beati Nicholai de Brackeden predicta die sabbati proxima post dominicam qua cantatur Misericordia Domini[31] predicte Matillidi in predicta causa responsura, &c. Quo processu in presencia ipsius officialis porrecto et ostenso, quesitum est[32] ab ipso si dictum processum advocat et si sit factum suum. Qui dicit expresse quod sit set dicit quod cum in instrumento publico predicto non contineatur

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[27] Bradewyce, deciphered by the transcriber of the Lincoln's Inn MS. as Brodtivice. I can find no place-name in Norfolk resembling this. The citation was first publicly pronounced in the church of Methelwode or Methwold, a manor of the Earl Warenne (Blomefield, ii, 201). Methwold was in the rural deanery of Cranwich, in Domesday Cranewisse (ib. 225). This suggests that the original record should have been Cranewyce, but that the clerk heard the name incorrectly.

[28] The word is perhaps used here, as in the Universities, to indicate a graduate.

[29] "The service of the citation at once produces three effects: (1) it pledges the defendant to appear, otherwise he is contumacious." Alexander III (1159–81) to Abbot of Ramsay and Archdeacon of Ely in *Decret. Lib.* II. Tit. xiv, c. 2. But "a defendant . . . requires to be libelled against or accused of contumacy before he can be punished for it." Reichel, ii, 241, 273. Nor can he be deemed contumacious until a single citation has been thrice repeated. Ib. 270. That this was a "simple" and not a "peremptory" citation appears from the shortness of the interval granted. Ibid.

[30] By constitution xxvi of the legate Otho it was ordained that the officer of the Court should make diligent search for the defendant "quem si reperire non poterit, die Dominico vel alio solenni in Ecclesia loci illius in quo degere consuevit, dum Missa cantatur, publice Literas legi faciat et exponi." E. Gibson, *Codex*, ii, 1002; Wilkins' *Concilia*, i, 655. It would appear

the noble man, the Lord John Earl Warenne by the dean of Bradewyce[27] of the said diocese there published ordering you to appear before the discreet man the lord[28] official of the lord the archdeacon of Norfolk or his commissary in the parish church of Saint Nicholas of Brakeden of the said diocese on Friday next after the feast of Saint Gregory, Pope, in a cause of matrimony and divorce in presence of the said official which by a process with the authority of the ordinary is now in course or expected to be in course between her, Maud petitioner of the one part, and the noble man John Earl Warenne and for the defendent of the other part, and to do and receive that which is of right and reason. Done on the day in the month (and) place aforementioned in the presence of Walter of Branteston, John of Holme, clerks, and other witnesses specially summoned and bidden to the proceedings aforesaid. There is contained also in the same process that after the citation aforesaid of the aforesaid countess had been made, as is aforesaid, the said official because the said countess did not appear before him on the day aforesaid deemed her the countess to be contumacious[29] and again decreed that she should be summoned in certain manors and parish churches named in the said process if she could be found there in person or if the said countess or her proctors should not be found, a copy of the libel aforesaid of Maud of Neyrford against the aforesaid countess should in the presence of the official in person be placed spread out upon the great altars of those churches and should be affixed to the doors of the same[30] and that the issue of the public citation having been published in the manors and churches aforesaid, she should be cited to appear before the official himself or before his commissary in the parish church of Saint Nicholas of Brakeden aforesaid on the Saturday next after the Sunday on which is sung "misericordia Domini"[31] to answer the aforesaid Maud in the aforesaid cause, &c. Which process in the presence of the official in person having been produced and exhibited the question was asked[32] of him if he avows the said process, and if it is his act. He answers expressly that

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from Otho's constitution that constructive and fictitious service had been effected by laying citations upon the altar and then removing them, the defendant being given no opportunity of becoming informed of them. His constitution implicitly dispenses with this formality which must therefore have been retained as a local custom in the diocese of Norwich. By a decretal of Gregory IX (1227–41) (Lib. II. Tit. xiv, c. 10) it was ordained that "when personal service can not be effected, the judge may decree the citation to be affixed to the door of his (the defendant's) house, or to the Church door during the time of divine service, and a copy left there. This is termed service by ways and means (viis et modis)." Reichel ii, 272.

[31] The introit of Mass for the second Sunday after Easter is taken from Psalm 33 (Vulgate version), 5, 6. "Misericordia Domini plena est terra. Alleluia. Verbo Domini coeli firmati sunt. Alleluia." Easter Day, 1315, falling on 23 March, the second Sunday after would be 6 April and the Saturday following 12 April. The passage was unintelligible to and hopelessly bungled by the transcriber of the Lincoln's Inn MS. whose Latinity was obviously imperfect.

[32] Presumably by the council. On the practice of administering interrogatories, see Introd. pp. xlii–xliii.

quod predicta Comitissa citata fuit Immo tantummodo continetur in eodem Instrumento quod quedam notificacio eidem Comitisse facta fuit de quadam citacione sibi alibi quam in Palacio predicto facta et per quemdam Decanum in Diocesi Norwycensi videtur sibi quod racione illius notificacionis que non fuit citacio cum ipse per citaciones testificatas per Decanos et ministros suos in negotio predicto processit et processum fecit et non virtute notificacionis predicte sibi[33] facte quod in nullo deliquid contra dominum Regem aut alium &c. Quesitum est insuper ab eodem Officiali si postquam per prefatum Archidiaconum superiorem suum sibi inhibitum fuit ne in negocio predicto vlterius procederet. Et postquam predictus Episcopus prefato Archidiacono de mandato Domini Regis predicto constare fecit si in negocio predicto vlterius processit dicit quod sic Et prout ad officium suum pertinuit ut sibi videbatur quod bene et licite procedere potuit, &c.

Et quia responsione et racionibus prescripti officialis auditis et intellectis inspectoque et examinato processu negotii predicti coram ipso habito et per prefatum Episcopum domino Regi misso et quem processum idem Officialis advocat esse factum suum continetur in eodem videlicet in Instrumento publico in eodem processu insertum quod predictus Robertus dictus de capella de Jakesle in predicta capella bassa in Palacio domini Regis predicto qui est locus exemptus ab omni jurisdiccione ordinaria tam racione dignitatis et corone sue quam libertatis Ecclesie Westmonasteriensis et maxime in presencia ipsius domini Regis tempore parliamenti sui ibidem, Ita quod nullus summoniciones seu citaciones ibidem faciat et precipue illis qui sunt de sanguine Domini Regis quibus major reverentia quam aliis fieri debet Compertum est quod predictus Officialis vi et effectu Instrumenti publici predicti et racione verborum in eodem contentorum processum in negocio predicto coram eo inchoatum versus prefatam Comitissam continuauit et eam contumacem reputauit prout in predicto processu plenius continetur occasione contumacie seu post notificacionem predictam coram ipso Officiali per ipsum notarium predictum sibi testificatam admittens et acceptans notificacionem illam et processum suum super eadem continuans ac si esset citacio debita et manifesta, Nec invenitur in predicto processu quod aliqua alia citacio super prefatam Comitissam per decanos aut alios facta fuit qualitercumque idem Officialis dicat se predictum processum fecisse et continuasse per citaciones per Decanos suos sibi testificatas nec idem officialis ignorare debuit quin predictus locus qui est solempnior locus istius Regni videlicet palacium predictum quod situm est infra libertatem Ecclesie Westmonasteriensis vbi nulli Archiepiscopi

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[33] Qu. a blunder for *ibi*, i. e. in the crypt of St. Stephens.

it is, but he says that in the public instrument aforesaid it is not contained that the aforesaid countess was cited, but it is only contained in the same instrument that a certain notification was made to the same countess touching a certain citation made to her elsewhere than in the palace aforesaid and by a certain dean in the diocese of Norwich, it seems to him that by reason of that notification, which was not a citation since he himself proceeded in the matter aforesaid by way of citations attested by his deans and ministers and made process, and not by virtue of the notification aforesaid there made, that that being so, he has in no wise offended against the lord the king or any other &c. The question being further asked of the same official if, after that the inhibition had been issued to him by the aforementioned archdeacon his superior, against further process in the matter aforesaid. And if after that the aforesaid bishop by command aforesaid of the lord the king certified the aforementioned archdeacon thereof, he proceeded further in the matter aforewritten, he says yes, and as pertained to his office, as it seemed to him, that he was able well and lawfully to proceed &c.

And because, after the hearing and understanding of the answer and reasons of the aforewritten Official, and after inspection and examination of the process of the matter aforesaid had in his presence and by the aforementioned bishop sent to the lord the king, which process also the same official avows as his act, it is contained in the same, that is, being inserted in the public instrument in the same process, that the aforesaid Robert of the chapel of Jackesle in the aforesaid low chapel in the palace of the lord the king aforewritten, which is a place exempt even from all jurisdiction of the ordinary by reason as well of the king's dignity and of that of his crown as of the liberty of the church of Westminster, and particularly in presence of the lord the king in person at the time of his parliament there, so that none there issue summons or citations and especially to those of the blood of the lord the king to whom greater reverence than to others ought to be paid, it is found that the aforesaid official, by force and effect of the public instrument aforesaid and by reason of words contained in the same, continued a process in the aforesaid matter begun before himself against the aforementioned countess and deemed her to be contumacious as more fully is contained in the process aforesaid, and on account of her contumacy or else after the notification aforesaid in presence of him, the official, attested to him by the aforesaid notary in person he admitted and received that notification and continued his process upon the same as if it were a due and manifest citation, and it is not found in the same process that any other citation as to the aforementioned countess was made by deans or others, howsoever the same official may say that he made the aforesaid process and continued it by means of citations attested to him by his deans, whereas the same official ought not to be ignorant that the aforesaid place is a very solemn place of the kingdom, namely, the palace aforesaid, situate within the liberty of the church of Westminster where no arch-

Episcopi seu alii quicunque Jurisdiccionem ordinariam exercere possint aut debeant Idemque officialis Cognouit quod in negocio predicto processit et processum continuauit postquam per superiorem suum Archidiaconum predictum sibi inhibitum fuit ne in negocio predicto procederet que quidem omnia in dedecus et contemptum domini Regis manifeste redundant et contra Coronam et dignitatem suam.

Consideratum est quod idem Officialis committatur Turri Londonie et ibidem custodiatur ad voluntatem domini Regis. Et quo ad predictum Archidiaconum quia ipse pretendit se acquietare quod ipse citacionem predictam nunquam fieri precepit nec aliquid de predicto negocio scivit aut se intromisit quousque prefatus Episcopus sibi de mandato Domini Regis constare fecit prout in responsione sua superius continetur, et tunc incontinenti inhibuit dicto Officiali suo ne se vlterius inde intromitteret. Et idem Officialis hoc idem in responsione sua superius cognovit, de gracia Domini Regis speciali datus est ei dies ad proximum Parliamentum[34] tunc de voluntate domini Regis inde audienda &c. Et de predictis notariis et testibus preceptum est vicecomitibus Londoniensi Eboracensi et Lincolniensi videlicet singulis eorum separatim quod attachiarent predictos Notarium[35] et testes Ita quod eos habeant coram ipso domino Rege in crastino sancti Johannis Baptiste[36] vbicumque[37] &c. ad respondendum Domino Regi super contemptubus et transgressionibus per ipsos Domino Regi factis prout in processu prescripto plenius continetur &c.

London'
Ebor'
Lincoln'

COSFELD *v.* LEVEYS[1] ETC.

1322 A nostre Seigneur le Roy et son consail monstre Godekyn de Cosfeld[2] de Estland qe la ou il fu venant vers la seint Botolf[3] en la mier ove une neef charge ove diverses biens cest asaver dure pesshun et borde et autres chateux a la valiaunce de trois centz livers la quele fu enanckore pres de Skegnes en la Conte de Nicole le Meskirdy en la semaigne de Pentecost[4] lan du regne le Roi Edward qore est qe dieu gard quinzime et les mariners de la dite neef furont en la dite ville de Skegnes de les alower un loderesman la vindront Robert Leveys,[5] Thomas Springet,[6] William Punch[7] et Gerveys Alard[8] Mariners de Portz. Et la dite Neef ove totes les biens qe la einz

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[34] The next parliament met at Lincoln on 27 January, 1316. Parry, *Parliaments and Councils*, p. 79.

[35] Sic; although plural before.

[36] 25 June, 1315.

[37] The ancient form of the council's writ, continued also in the king's bench. See Leadam, *Select Cases in the Star Chamber* (Selden Society, 1902), p. xvi. In June Edward himself appears to have been with the army in Scotland, and the "ubicumque" must almost necessarily have been a form.

[1] Found in *Ancient Petitions*, no. 4913.

[2] or Gosefeld (?). No other reference to him has been found, but other merchants of Eastland and Prussia we know were coming to England under letters of protection and safe conduct. *Cal. Cl. Rolls*, 16 Ed. II, 266, 293, 360, &c.

[3] Boston, the principal port in England for the Eastland trade which came from Lübeck, Kampen, Hamburg, &c.

[4] 2 June, 1322.

[5] Mentioned as Robert Lewys of Greenwich. *Cal. Pat.* 15 Ed. II, 160.

bishops, bishops or other persons whosoever can or ought to exercise the jurisdiction of an ordinary, and whereas the same official has admitted that he proceeded in the matter aforesaid and continued process after that an inhibition had been issued to him by his superior the archdeacon aforesaid against proceeding in the matter aforesaid, (and whereas) all these proceedings manifestly redound to the despite and are in contempt of the lord the king and against his crown and dignity.

It is adjudged that the same official be committed to the Tower of London and be there in custody at the king's pleasure and as touching the aforesaid archdeacon for that he claims acquittal in that he himself never ordered the said citation to be made nor knew anything of the aforesaid matter or meddled therein until the aforementioned bishop certified him of the commandment of the lord the king as in his answer is before contained and then incontinently inhibited his said official from further meddling in that behalf. And the same official has in his answer before admitted this particular, day is given him of the lord the king's special grace to the next parliament,[34] at which time he is to hear in that behalf as to the will of the lord the king &c. And concerning the aforesaid notaries and witnesses, a precept has been issued to the sheriffs of London, York and Lincoln, namely to each of them separately, to attach the aforesaid notary and witnesses so that they may have them before the lord the king in person on the morrow of St. John the Baptist's day[36] wheresoever[37] &c. to answer to the lord the king touching the contempts and trespasses by them done against the lord the king according as in the process above written is more fully contained.

COSFELD *v.* LEVEYS[1] ETC. [1322]

To our lord the king and his council shows Godkin de Cosfeld [2] of East-
1322 land that whereas he was coming by sea toward St. Botolph's [3] with a ship laden with diverse goods, namely dried fish and boards and other chattels to the value of £300, which (ship) was at anchor near Skegness in the county of Lincoln on Wednesday in the week of Pentecost [4] in the fifteenth year of the reign of the present king Edward, whom may God preserve, and (while) the mariners of the said ship were in the said town of Skegness to hire a steersman, there came Robert Leveys,[5] Thomas Springet,[6] William Punch [7] and Gervase Alard,[8] mariners of the port. And the said ship with all the

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[6] There is reason to believe that these men were systematically engaged in piracies of the kind, for earlier in the same year there was complaint of a merchant of Almain that Thomas Springet, Robert Lewys, Gervase Alard and others boarded his ship while anchored in the port of Harwich, assaulted him and his men and took away the ship with all the goods in her. The matter was given to a commission of oyer and terminer under instructions that the jury should be men of Suffolk (*Cal. Pat.* 15 Ed. II, 160).

[7] Pounche or Pouche.

[8] He was involved in still another case of the kind in 1323, this time at Sandwich, together with Stephen and Reginald Alard. *Cal. Pat.*, 17 Ed. II, 385.

furont pristeront meneront tanqe a Blakeneye et de ceo ount fete lour volunte. Et les Marchantz et touz les Mariners qe furont en la dite Neef sur la venue le dit Robert Leveys et ses compaignons de la dite Neef pur doute fuiront. De quel trespas le dit Marchant prie qe remedie luy soit fait.

[*Endorsed, 1:*—] Lavisement du Counseil.

Il semble au conseil si il pleise a nostre Seignur le Roi qil est bien qe nostre seignur mande a ceus qe sont nomez trespassours en cestes peticions par lettres asperes queux facent dues restitucions sant delay des biens issint prises ou qil seient devant le Roi a certein jour de respondre sur ceo et a estier a dreit.

[*2:* —] Lassent puis du Roy.[9]

Le Roi veut q ensi soit fait et qe les siens ne soient en ce rien esparniez plus qe autres. Car il lui semble qe les siens deussent melz garder la pees q autres. Et pur ce veut qil soient chastiez aussibien come autres.

EXAMINATION OF GILBERT BLOUNT[1]

1350 Memorandum quod Gilbertus le Blount[2] de Plessys venit die Veneris vicesimo secundo die Ianuarii anno regni domini Edwardi Regis Anglie et Francie, Anglie videlicet vicesimo tercio et Francie decimo, apud Westmonasterium in Cancellariam predicti Regis coram Cancellario[3] et Thesaurario[4] et aliis de consilio ipsius Regis tunc ibidem existentibus virtute cuiusdam brevis dicti Regis eidem Gilberto directo de essendo coram ipso Rege et consilio suo in cancellaria sua, ad informandum ipsum Regem et consilium suum super aliquibus prefato Gilberto ex parte dicti Regis exponendis, et ad faciendum quod sibi per dictum Regem et consilium iniungeretur.[5] Et idem Gilbertus, ibidem iuratus et examinatus[6] de forma et condicione quibus Thomas Fabel,[7] unus collectorum decime et quintedecime dicto Regi per laicos nuper concessarum in comitatu Essex', terras, tenementa, bona et catalla sua ante mortem suam alienauit, dixit et cognouit per sacramentum suum quod predictus Thomas, bone et sane memorie existens, tercio die ante mortem suam, videlicet sexto decimo die Maii anno predicto, cognouit se debuisse dicto domino Regi quadringentas libras et plus de decima et quintadecima predictis, et propter hoc et ex aliis

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[9] It was a rule laid down in 1362 that for matters touching the king bills should be brought to him for endorsement. *Rot. Parl.* ii, 272.

[1] *Parliamentary and Council Proceedings* (Chancery), file 46, no. 20.

[2] Of the leading participant in this case less is known than of any other person involved. He was evidently of a local family of repute in Essex identified by name with Pleshy the seat of the Bohuns. Gilbert is reported to have held tenements in Beaumont, Great Oakley and Ramsay. *Cal. Cl. Rolls*, 25 Ed. III, 346.

[3] John of Thoresby, bishop of St. David's, chancellor 1349–56.

[4] William of Edington, bishop of Winchester, treasurer 1345–58.

[5] This writ was issued 19 Dec. 1349. The same writ *mutatis mutandis* was issued also to John Fermer, Roger de Pole, Humphrey de Walden, John de Depe-

goods in her they seized and took to Blakeney, and have done as they wished with her. And the merchants and all the mariners that were in the ship at the coming of the said Robert Leveys and his companions fled for fear from the ship. For this trespass the said merchant prays that remedy be afforded him.

[*Endorsed, 1:* —] The advice of the council.

It seems good to the council, if it pleases our lord the king, that our lord should command those named as trespassers in these petitions, by severe letters, to make without delay due restitution of the goods taken or come before the king at a certain day to answer thereupon and stand trial.

[*2:* —] The following assent of the king.[9]

The king wills that this should be done and that his own (men) should not be spared in this (matter) any more than others. For it seems to him that his own (men) ought to keep the peace better than others. Wherefore he wills that they should be chastised as well as others.

EXAMINATION OF GILBERT BLOUNT[1]

1350 Be it remembered that on Friday the twenty-second day of January in the reign of our lord Edward king of England and France, that is, of England the twenty-third year and of France the tenth year, Gilbert le Blount[2] of Plessy came into the chancery of the aforesaid king at Westminster before the chancellor[3] and treasurer[4] and others of the said king's council then remaining in the chancery, (appearing) in response to a certain writ of the said king directed to the said Gilbert to be before the king himself and his council in his chancery, to inform the king himself and his council upon certain matters to be laid before the aforesaid Gilbert in behalf of the said king, and to do whatever should be enjoined upon him by the said king and council.[5] And the said Gilbert, having been sworn and examined[6] concerning the manner and circumstances in which Thomas Fabel,[7] one of the collectors in the county of Essex of the tenth and fifteenth recently granted to the said king by the laity, had alienated his lands, tenements, goods and chattels before his death, upon his oath declared and acknowledged that the aforesaid Thomas, being of good and sound mind, three days before his death, that is, on the sixteenth day of May in the year aforesaid, acknowledged that he owed the said lord the king four hundred pounds and more out of the aforesaid tenth and fifteenth, and that for this reason as well as

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den, and William de Say. *Cal. Cl. Rolls,* 152.

[6] An early example of an interrogatory examination. See Introd. Part I.

[7] He was in 1347 collector of the aid for knighting the king's son (*Cal. Cl. Rolls,* 244), and in 1348 a collector of the tenth and fifteenth (*Cal. Pat. Rolls,* 236). He held two parts of the manor of Falkborne and also a tenement called Benflete in the honour of Hatfield Peverell (*Inq. post Mortem,* 24 Ed. III, file 107, old no. 28; T. Morant, *Essex* [1816], ii, 116, 131). He died about 16 May, 1349, leaving a widow Mary and a son John. Various deeds in his name have been found but not the one here mentioned.

causis dedit Iohanni Fermer,[8] militi, de bonis et catallis ipsius Thome ad valenciam centum librarum ad satisfaciendum inde Willelmo de Bohun,[9] Comiti Norhampton', de centum libris eidem Comiti de quadam assignacione sibi super decima et quintadecima predictis in dicto comitatu facta, et eciam idem Thomas dedit et concessit eisdem Iohanni Fermer, Gilberto le Blount, Roberto de Teye,[10] Leoni de Bradenham,[11] Iohanni de Boys[12] et Iohanni de Oxeneye[13] residuum omnium bonorum et catallorum ipsius Thome, ac terras et tenementa sua in comitatu Essex', necnon maritagium Iohannis, filii et heredis eiusdem Thome, cuius donacionis et concessionis pretextu predictus Gilbertus nomine suo et predictorum Iohannis, Roberti, Leonis, Iohannis et Iohannis, cepit seisinam de terris et tenementis ac bonis et catallis predictis, vivente predicto Thoma, sub tali condicione quod omnia bona et catalla eisdem Iohanni, Gilberto, Roberto, Leoni, Iohanni et Iohanni sic in communi data ac maritagium predictum pro diuersis debitis que idem Thomas tam de decima et quintadecima predictis quam ex aliis causis dicto Regi debebat venderentur, et sic dicta bona et catalla ac maritagium ad dicta debita acquietandum non sufficerent, tunc dicti feoffati de dictis terris et tenementis ad valenciam tanti de quanto dicta debita quietari possent venderent, et dicto domino Regi inde satisfacerent. Et eciam predictus Gilbertus dixit quod ad quandam curiam ante mortem dicti Thome tentam apud Falkeborne per Adam Passefeld' omnes tenentes maneriorum de Falkeborne[14] et Termyns[15] se de fidelitatibus suis prefatis feoffatis attornauerunt, per quod dictum fuit prefato Gilberto quod esset coram Thesaurario et Baronibus de Scaccario apud Westmonasterium die Lune in festo conuersionis Sancti Pauli[16] ad faciendum in hac parte quod ibidem super hoc contigerit ordinari.[17]

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[8] Member of a prominent local family, holding a life estate in the manors of Foxearth and Weston (Morant, ii, 326). He was a knight of the shire for Essex in the parliament of 1346, and sometimes served as commissioner of oyer and terminer. He was one of the gentlemen mentioned above who were summoned in the present case.

[9] Third son of Humphrey Earl of Hereford and Essex; he died in 1359 or 1360. Morant, ii, 451; Dugdale, *Baronage*, i, 185.

[10] or Tay, the name of a manor in Lexden, held by a family that thence derived its name. From 1351 to 1356 this Robert served conspicuously as commissioner of the peace and justice to enforce the statutes of labourers (*Cal. Pat.* passim). In 1355 he was attorney for the aforesaid earl of Northampton. Morant, ii, 202.

[11] or Lionel B. held a tenement in Langenhou in Winstree (Morant, i, 416). In 1355 he was commissioner of the peace and justice of labourers (*Cal. Pat. Rolls*, 294), and in 1360 commissioner of array in Essex (ibid. 413). He was persistently engaged in quarrels with his neighbors up to the time of his death in 1361.

[12] Son of John of Boys, acquired in 1352 a moiety of the manor of Blunts Hall in Witham and Hatfield Peverell (*Cal. Cl. Rolls*, 468). From him came the name of Boys Hall in Halstead (Morant, ii, 108). He served as commissioner of array in 1360 (*Cal. Pat. Rolls*, 413) and died the year after.

for other causes he gave to John Fermer,[8] knight, goods and chattels of the said Thomas to the value of a hundred pounds, in order thereby to satisfy William of Bohun,[9] earl of Northampton, for the hundred pounds (due) to the said earl by reason of a certain assignment that had been made to him out of the aforesaid tenth and fifteenth in the said county; also the said Thomas gave and granted to the same John Fermer, Gilbert le Blount, Robert of Tey,[10] Leon Bradenham,[11] John of Bois[12] and John of Oxney[13] the residue of all the goods and chattels of the said Thomas, and also his lands and tenements in the county of Essex, as well as the marriage of John son and heir of the said Thomas; by pretext of this grant and concession the aforesaid Gilbert in the name of himself and of the aforesaid John, Robert, Leon, John, and John took seisin of the aforesaid lands and tenements and also goods and chattels, while the aforesaid Thomas was living, under the condition that all the goods and chattels thus given in common to the said John, Gilbert, Robert, Leon, John, and John as well as the aforesaid marriage should be sold for various debts which the said Thomas owed the said king for the aforesaid tenth and fifteenth as well as for other causes; and should the said goods and chattels together with the marriage not be sufficient to pay off the said debts, then the said feoffees were to sell the said lands and tenements in order to pay off as many of the said debts as possible, and they were to give satisfaction therefor to the king. Moreover the aforesaid Gilbert said that at a certain court held by Adam Passefeld at Falkborne before the death of the said Thomas, all the tenants of the manors of Falkborne[14] and Termine[15] attorned to the aforesaid feoffees; wherefore the aforesaid Gilbert was told that he should be before the treasurer and barons of the exchequer at Westminster on Monday the feast of the Conversion of St. Paul,[16] to do in this matter whatever should there be ordained.[17]

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[13] Son of Walter of Oxenhey, or Oxeneye, was granted the manor of Wastails in Froshwell (Morant, ii, 522). He acted in various transactions as mainpernor, witness and attorney (*Cal. Pat.* passim). In 1357 he is credited with holding a fourth part of the office of usher of the exchequer (*Cal. Pat.* 583).

[14] A manor in Witham, two parts of which had been held by Thomas Fabel. Morant, ii, 116.

[15] Another name for the manor of Hatfield Peverell. Ibid. 129.

[16] 25 Jan. 1350.

[17] The litigation of which this record is a part seems to have been a suit on the part of the heirs for recovery of the balance of the property alienated in trust. The outcome of the affair is learned in part from the enrollment of a deed, dated 28 Oct. 1350, whereby Lionel of Bradenham and Gilbert le Blount enfeoffed to Mary late the wife of Thomas Fabel and to John their son all the lands which had belonged to Thomas in Hatfield Peverell, Terling, Fairsted, White Notley, Wickham, Boreham, Woodham, &c., and two parts of the manor of Falkborne and the advowson of Falkborne church. *Cal. Cl. Rolls*, 24 Ed. III, 274.

REX *v.* WILLIAM MIDDLETON[1]

1353 Memorandum quod Willelmus de Middelton,[2] vicecomes et escaetor domini Regis in comitatibus Norf' et Suff', coram consilio domini Regis in camera domus fratrum predicatorum London',[3] ubi consilium domini Regis tenetur, allocutus de eo quod ipse, vacante ecclesia de Denton[4] Norwicensis diocesis et presentacione eiusdem ecclesie ad ipsum dominum Regem racione feodorum militum et aduocacionum ecclesiarum que Eua, que fuit uxor Roberti de Tateshale[5] defuncta, tenuit ad terminum vite sue de hereditate heredum predicti Roberti in manu domini Regis per mortem predicte Eue existencium supplicauit domino Regi ut idem dominus Rex fratrem uxoris dicti Willelmi ad eandem ecclesiam presentaret, et negata sibi presentacione predicta, auditoque quod dictus dominus Rex quendam clericum suum ad eandem ecclesiam presentauit, idem Willelmus accedens ad Adam de Clifton,[6] unum participum hereditatis predicte, asserens presentacionem ecclesie illius ad propartem ipsius Ade pertinere debere, quandam presentacionem a predicto Adam, ac si particio feodorum et aduocacionum predictorum facta et aduocacio dicte ecclesie eidem Ade in propartem suam assignata fuissent, cum non fuerint, impetrauit, cujus presentacionis pretextu dictus frater uxoris predicti Willelmi ad ecclesiam predictam admissus fuit,[7] et eandem ecclesiam sic optinet, cuius possessionem dictus Willelmus postmodum petiit a domino Rege confirmari, et sic idem Willelmus falso et contra sacramentum[8] suum presentacionem predicte ecclesie de predicto Adam pro predicto fratre uxoris eiusdem Willelmi ad excludendum ipsum dominum Regem de iure sibi ad predictam ecclesiam presentandi competenti fuit prosecutus, in decepcionem et exheredacionem eiusdem domini Regis etc., dicit quod idem Willelmus non supplicauit domino Regi de huiusmodi presentacione optinenda, set dicit quod ipse,

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[1] *Parliamentary and Council Proceedings* (Chancery), file 46, no. 25. Besides the memorandum here printed the record contains a writ and a partition of the property in question, but as these are of no value to the case and as they can readily be found elsewhere it has not been thought necessary to give them here.

[2] Sheriff and escheator of Norfolk and Suffolk continuously from 1345 to 1349, then after a year's interim again from 1350 to 1 August, 1353 (Public Record Office, *Lists and Indexes*, vol. ix). He was the head of a family known from the time of Edward I. Their principal seat was Middleton Hall, an under-manor or free tenement in Walsham Hall Norfolk, where William's son Richard succeeded him (F. Blomefield, *Hist. of Norfolk* [1805], v, 383). As may be inferred from the present case, Middleton was bent on the acquisition of property. In this same year 1353 he purchased the manor of Hawstead in Suffolk (W. A. Copinger, *Manors of Suffolk* [1905–11], vii, 32).

[3] The chapter house of the Blackfriars, the most frequent meeting place of the council within the city of London.

[4] Located in the hundred of Denton in the southern part of Norfolk, 3½ miles southwest of Bungay and situated upon a high hill. It was a fairly rich living, worth £24 a year in the king's books. Blomefield, v, 414.

[5] or Tatershall, scion of a Norman baronial family, who had married the aforesaid Eva when both of them were children. This Robert died in 1302 and his youthful son, the last of the male line, died in 1305 (Dugdale, *Baronage*, i, 440).

REX *v.* WILLIAM MIDDLETON[1]

1353 Be it remembered that William of Middleton,[2] sheriff and escheator of the lord the king in the counties of Norfolk and Suffolk, before the council of the lord the king, in a chamber of the house of the friars preachers in London,[3] where the king's council is held, having been arraigned on the charge that during the vacancy of the church of Denton[4] in the diocese of Norwich, when the presentation of the same church (pertained) to the lord the king himself by reason of the knights' fiefs and advowsons of the churches which Eva, who was the wife of Robert of Tateshall[5] deceased, held for life of the inheritance of the heirs of the aforesaid Robert, being in the hand of the lord the king by the death of the aforesaid Eva, he petitioned the lord the king to present to the same church the brother of the wife of the said William, and when the aforesaid presentation was denied him and when he had heard that the said lord the king had presented a certain clerk of his to the same church, the same William went to Adam of Clifton,[6] one of the parceners of the aforesaid inheritance, and asserting that the presentation of that church ought to pertain to the purparty of Adam himself he obtained a certain presentation from the aforesaid Adam, as if the partition of the aforesaid fiefs and advowsons had been made and the advowson of the said church had been assigned to the same Adam as his purparty, though they had not been; on the pretext of which presentation the said brother of the wife of the aforesaid William was admitted to the aforesaid church and thus he obtained the same church,[7] the possession of which the said William afterwards asked the king to confirm; and so the same William falsely and against his oath[8] has sought the presentation of the aforesaid church of the aforesaid Adam for the aforesaid brother of the wife of the same William in order to exclude the lord the king himself from his right to present the aforesaid church to a competent person, to the deception and disinheritance of the same lord the king, etc.; he says that the same William did not seek to obtain from the lord the king a presenta-

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As dowry Eva continued to hold a life estate in various manors and other properties, including Denton and the advowson of the church of Denton. On her death, which occurred in 1350, these estates were taken into the king's hand as escheats of an extinct barony (*Cal. Inq. p. m.* ii, 165). They are yet to be partitioned among the representatives of three female heirs.

[6] Son of Roger of Clifton who had made a fortunate alliance by marrying Margery Cailli one of the heirs of the Tatershall estates (Burke, *Dormant and Extinct Peerages* [1883], 124; also Blomefield, viii, 350). This Adam now claims his share in the partition of the estates left by Eva, to which the advowson of the church of Denton belongs. The Cliftons were greatly strengthened by these and other acquisitions made by Adam, and his son John in 1376 was summoned to parliament as a baron. Their principal estate was Freebridge Hundred (*Cal. Inq. p. m.* ii, 246).

[7] This rector was William of Panham "shaveling," who is mentioned in the list of incumbents as one presented by Sir Adam Clifton. He was superseded by William of Ipswich, a presentee of the king. Blomefield, v, 411.

[8] The oath of an escheator and likewise of a sheriff was to guard loyally the

virtute cuiusdam brevis[9] ipsius domini Regis eidem Willelmo ut escaetori domini Regis in comitatibus predictis de particione feodorum et aduocacionum predictorum inter dictum Adam et alios participes dicte hereditatis facienda directi, fecit particionem de feodis et aduocacionibus predictis inter participes predictos, et iuxta eandem particionem aduocacio predicte ecclesie in propartem predicto Ade fuit assignata, quam quidem particionem tradidit attornatis predictorum participum in cancellariam dicti domini Regis iuxta tenorem brevis predicti deferendam, et, dicta ecclesia post particionem predictam vacante, predictus Adam fratrem predicti Willelmi ad ecclesiam illam presentauit; et quia postmodum audierat quod particio predicta in dicta cancellaria non fuit retornata, et quod nullius esset valoris antequam in eadem cancellaria admitteretur, timens per hoc dictum presentatum per prefatum Adam super admissione sua ad ecclesiam predictam impediri posse, litteras suas misit Petro de Brewes,[10] militi, et Iohanni de Herlyng,[11] cum dicto domino Rege commorantibus, ut penes dominum Regem pro presentacione hujusmodi ab eo optinenda prosequerentur, et post admissionem dicti presentati ad ecclesiam illam predictus Willelmus, ipso de presentacione facta per dictum dominum nostrum Regem ad eandem ecclesiam penitus ignaro, supplicauit statum illius presentati per dictum Adam a domino Rege confirmari, et non intelligit quod per hoc quicquam quod contra sacramentum suum vel in exheredacionem domini Regis in hac parte cedere possit fecit nec attemptauit. Et quia, visa certificacione predicta per ipsum Willelmum in cancellaria predicta super particione predicta retornata, non continetur in eadem dies nec locus quando et ubi particio illa facta extitit, et cum breve[12] de particione predicta facienda eidem Willelmum directum sit de data decimi diei Februarii anno regni dicti domini Regis Anglie vicesimo sexto, idem breve cum certificacione inde facta ante Octabas Sancte Trinitatis[13] anno regni dicti domini Regis Anglie vicesimo septimo non fuit retornatum, per quod clare videtur tam certificacionem predictam quam omnia alia predicta per predictum Willelmum pro excusacione sua in hac parte allegata delusoria et minus vera esse. Et ideo consideratum est quod predicta certificacio aut particio

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rights of the crown and not to assent to the decrease or concealment of the king's rights and franchises, &c. *First Report on the Public Records* (1800), 234, 236.

[9] A writ dated 20 June, 1350, directed to John Colby then escheator, to make the partition (*Cal. Cl.* 24 Ed. III, 188) had evidently not been executed. The writ here mentioned as directed to Middleton was dated 10 Feb. 1352, and was afterwards vacated as a result of the present case (ibid. 26 Ed. III, 408).

[10] or Breuse, since 1345 a king's yeoman and a constant attendant of the king's household. He was liberally rewarded with annuities and custodies (*Cal. Pat.* passim). His influence at court is seen in the numerous licenses and pardons that were granted "at the request of Peter of Brewes." As a likely means of gaining the king's favour Middleton now applies to him. He possessed in Norfolk the manors of Skeyton and Tharston Hall which he left to his son John (Blomefield, v, 305).

[11] Another king's yeoman, also usher of the king's chamber and recipient of numberless grants and favours. In 1346 he was controller of customs in the port of Boston, in 1348 controller in the port of Newcastle-on-Tyne, in 1352 controller in the port of Lynn and collector of the petty customs in the port of London. These

tion of this kind, but he says that by virtue of a certain writ [9] of the lord the king himself directed to the same William as escheator of the lord the king in the aforesaid counties, for making the partition of the aforesaid fiefs and advowsons between the said Adam and other parceners of the said inheritance, he has made partition of the aforesaid fiefs and advowsons between the aforesaid parceners, and according to the same partition the advowson of the aforesaid church was assigned as the purparty of the aforesaid Adam, which partition indeed he gave over to the attorneys of the aforesaid parceners to be returned into the chancery of the said lord the king according to the tenour of the aforesaid writ, and, the said church being vacant after the aforesaid partition, the aforesaid Adam presented the brother of the aforesaid William to that church; and because he had afterwards heard that the aforesaid partition was not returned in the said chancery, and since it would be of no validity until it was received in the same chancery, fearing that on this account the said one presented by the aforesaid Adam could be hindered in his admission to the aforesaid church, he sent his letters to Peter of Brewes [10] knight and John of Herling,[11] who were tarrying with the said lord the king, that they might seek with the lord the king to obtain from him a presentation of this kind, and after the admission of the said one presented to that church the aforesaid William, who was himself wholly ignorant of the presentation made by our said lord the king to the same church petitioned that the estate of the one presented by the said Adam be confirmed by the lord the king, and (he says that) he does not know that in this he has done or attempted anything that can result contrary to his oath or to the disinheritance of the lord the king in this matter. And since, after viewing the aforesaid certification of the aforesaid partition returned by the same William in the aforesaid chancery, there is not contained in the same the day or the place when and where that partition was made, and whereas the writ [12] directed to the same William for making the aforesaid partition is of the date 10th of February in the 26th year of the reign of our said lord the king of England, the same writ with the certification then made was not returned before the Octaves of Holy Trinity [13] in the 27th year of the reign of our said lord the king of England, by which it seems clear that the aforesaid certification as well as all the other foregoing things alleged by the aforesaid William for his excuse in this matter are delusory and not true. And so it was adjudged that the aforesaid cer-

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offices he was permitted to discharge by deputy because of his attendance upon the king (*Cal. Pat.* 26 Ed. III, 327, 348, 355, etc.). With all these honours, it is curious that he should have required a pardon for a burglary (ibid. 34 Ed. III, 390). In 1360 he was constable of Wisbech Castle and continued in active service as usher and serjeant until he was granted an exemption from public duties in 1367 (ibid. 394). He was the virtual founder of a strong family in Norfolk which derived its name from Herling's Manor left by John to his descendants (Blomefield, i, 319).

[12] The writ is recorded in the Close Roll, but for the reasons here given is marked as *vacated*. *Cal. Cl.* 26 Ed. III, 408.

[13] 26 May, 1353.

in eadem certificacione pretensa facta et omnia in ea contenta pro nullis habeantur, et quod predicta feoda et aduocaciones in manu domini Regis a tempore mortis predicte Eue semper remanserunt et remanere debent, quousque particio inde inter participes hereditatis predicte in cancellaria predicta fiat, et quod predictus Willelmus, qui a curia sine licencia recessit, pro falsitate predicta capiatur; per quod commissio facta est Thome atte Ferye, seruienti domini Regis ad arma, ad ipsum Willelmum capiendum et usque Turrim London' ducendum ibidem in prisona moraturum quousque Rex aliter ordinauerit de eodem, et amerciatus est ad centum solidos pro falsa certificacione predicta.[14]

REX *v.* WILLIAM ROUCEBY AND JOHN AVENEL[1]

A

1354 Memorandum quod Willelmus de Rouceby de capcione cuiusdam nauis vocate la Seinte Marie de Coronade de Ianua et quorundam bonorum et catallorum in eadem naue inuentorum ad sectam Antonii Compaignon,[2] mercatoris de Ianua,[3] impetitus venit in Cancellariam Regis apud Westmonasterium et dicit quod nauis predicta venit in le Trade de Sancto Mattheo in Britannia et ibidem moram fecit per tres fluxus et refluxus maris, et marinarii nauis predicte, non solutis custumis de mercandisis in eadem naui existentibus in portu predicto domino Regi Anglie debitis, cum eadem naue noctanter recesserunt, per quod idem Willelmus ut unus familiarum Iohannis Auenel, Capitanei et Locum tenentis dicti domini Regis in ducatu Britannie,[4] nauem predictam de precepto Thome de Lyndelowe, admiralli dicti Johannis Auenel in ducatu predicto, insecutus eandem nauem una cum mercandisis predictis tanquam dicto Capitaneo ex causa predicta iuxta consuetudinem parcium illarum forisfacta cepit iuxta Insulam de Sully in Cornubia, et de eisdem predicto Iohanni Auenal computauit et sibi de eisdem respondit, per quod non intendit quod ad sectam dicti Antonii de capcione nauis et bonorum et catallorum predictorum debeat impetiri.[5] Et super hoc mandatum est predicto Iohanni de essendo coram

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[14] The serjeant at arms was commanded further to take all the lands and chattels of Middleton in charge (*Cal. Cl.* 28 Ed. III, 1). At the same time he was deprived of office as sheriff and escheator. This happened apparently at the end of July, for the next sheriff began his term on 1 August. Middleton's lands were restored, presumably after fine was made, by an order of 30 Jan. 1354, but he was never given office or commission under the crown again. He increased his lands however and in 1362 was member of parliament for Suffolk (*Returns of Members*, i, 171). As to the bearing of the case further on the office of escheator, see Introd. p. lxxi.

[1] Found in *Parliamentary and Council Proceedings* (Chancery), file 47, no. 2. The record consists of 3 membranes, A, the memorandum, B, the writ of inquisition, C, the certification.

[2] The petition of Anthony was presented at some time between 27 Dec. 1353, the time of the capture, and 22 Jan. 1354, the date of a writ for the arrest of the captors. *Cal. Pat. Rolls*, 543.

[3] On the connection of the case with the king's policy toward Genoa see Introd. p. lxxii.

[4] In 1345 Edward III had received the homage of John of Montfort Duke of Brittany, and on his death which occurred

tification or the partition made in the same pretended certification and all things contained in it should be held as null, and that the aforesaid fiefs and advowsons shall continuously remain and ought to remain in the hand of the lord the king from the time of the death of the aforesaid Eva, until a partition of these among the parceners of the aforesaid inheritance be made in the aforesaid chancery, and that the aforesaid William, who has withdrawn from court without a license, should be taken for the aforesaid falsification; wherefore a commission was issued to Thomas atte Ferye, serjeant at arms of the lord the king, to take the said William and bring him to the Tower of London there to stay in prison until the king shall ordain otherwise concerning him, and he was amerced in 100s. for the aforesaid false certification.[14]

REX *v.* WILLIAM ROUCEBY AND JOHN AVENEL[1]

A

1354 Be it remembered that concerning the capture of a certain ship named "The Saint Mary of Coronade" from Genoa and certain goods and chattels found in the said ship, at the suit of Anthony Compaignon,[2] merchant of Genoa,[3] William of Rouceby having been impeached came into the king's chancery at Westminster, and he says that the aforesaid ship came into The Race of St. Matthew in Brittany and there tarried through three flows and ebbs of the tide, while the mariners of the aforesaid ship, having failed to pay the customs due to the aforesaid lord the king of England in the aforesaid port on the merchandise carried in the same ship, sailed away with the same ship by night, wherefore the said William as one of the retainers of John Avenel, captain and lieutenant of the lord the king in the duchy of Brittany,[4] following the aforesaid ship by order of Thomas of Lyndelowe, admiral of the said John Avenel in the aforesaid duchy, captured the said ship together with the aforesaid merchandise near the Scilly Islands in Cornwall, (taking these) for the aforesaid cause as a prize of the said captain's according to the custom of those regions, accounting for the same to the aforesaid John Avenel and answering to him for them; wherefore he does not think that he ought to be haled at the suit of the said Anthony for the capture of the aforesaid ship and goods and chattels.[5] Hereupon the aforesaid John was commanded to be before the king's council a week after

shortly afterward assumed the guardianship of the young Duke John. To govern the duchy there was appointed first Sir Thomas Dagworth as the king's captain and lieutenant, then in 1350 Sir Walter Bentley, and after him in April, 1353, the present John Avenel, a knight of Bedfordshire (Tout, *Pol. Hist.*, 357, 381; *Fœdera*, R. III, i, 257; O. v, 687, 754). He met with some disobedience in the duchy which caused the king to send emissaries to meet with the refractory captains (Ibid. R. III, i, 261). In November he was called upon to publish a truce concluded with Charles of Blois a claimant for the duchy (Ibid. 269).

[5] From the writ of 22 Jan. just mentioned we learn more of the facts connected with the capture. While in pursuit of the Genoese ship, Rouceby fell in with or picked up four other ships, so that it was a fleet of five ships that overtook the

consilio Regis in Octabis Sancte Trinitatis[6] anno regni Regis Edwardi tercii vicesimo octauo ad informandum dictum consilium super premissis. Ad quem diem predictus Iohannes venit coram consilio et dicit quod nauis predicta in portu predicto per tres fluxus et refluxus, ut premittitur, moram fecit, et magister et marinarii eiusdem nauis de veniendo ad terram sub saluo conductu pro custuma predicta ibidem soluenda per prefatum admirallum ex parte Regis requisiti, promiserunt se in crastinum ad terram ibidem ad custumam illam soluendam venire voluisse, et pro eo quod ipsi nocte subsecuta cum naui predicta, non soluta custuma predicta, recesserunt, predictus Willelmus ut familiaris predicti Iohannis et de precepto dicti admiralli sui nauem predictam insecutus fuit et eam cum mercandisis predictis tanquam predicto Capitaneo ex causa predicta forisfactam iuxta Insulam predictam cepit in forma predicta, et de eisdem naue et mercandisis cum prefato Iohanne computauit, et eidem Iohanni inde plenarie respondit, sicut superius dictum est. Et predictus Willelmus tradiditur Philippo de Whitton[7] in ballium, ad habendum ipsum coram consilio domini Regis, cum super hoc ex parte Regis fuerit premunitus. Et postmodum mandatum fuit prefato Iohanni per breve domini Regis quod esset coram Rege in cancellaria sua in crastino Ascensionis Domini[8] anno regni dicti domini Regis vicesimo nono ad audiendum iudicium suum super premissis. Qui quidem Iohannes in eadem cancellaria apud Westmonasterium ad diem predictum comparuit, et lecto et recitato ibidem coram ipso Iohanne processu predicto, in presencia Iohannis Ebor' Archiepiscopi Cancellarii[9] Willelmi Wynton' Episcopi Thesaurarii[10] ac Iusticiariorum de utroque banco et aliis (*sic*) de consilio dicti domini Regis, consideratum est quod predictus Iohannes capiatur et prisone domini Regis in Turri London' mittatur, et quod bona et catalla sua in manu Regis seisiantur quousque domino Regi de valore nauis et bonorum et catallorum predictorum fuerit responsum. Ita quod denarii de valore predicto provenientes, si inueniri contigerit nauem et bona et catalla predicta ex causa predicta forisfacta fuisse, predicto domino Regi tanquam bona sua propria, eo quod eadem nauis et bona in potestate domini Regis Anglie inventa et capta fuerunt, remaneant; et si ad sectam predicti mercatoris inueniri contigerit predicta nauem, bona et catalla in forma predicta forisfacta non fuisse, tunc predicto mercatori de valore predicto per dictum dominum Regem respondeatur.[11]

[*Endorsed:*—] Recordum contra Willelmum de Rouceby et Iohannem Auenel.

Genoese at the Scilly Islands. First the Englishmen demanded 200 florins for their release, and then on their refusal to pay boarded the ship and seized her, while the merchants took to the boats and escaped to land. Two of the five ships of the fleet were found and arrested at Bristol. *Cal. Pat.* 543.

[6] 15 June, 1354.

[7] A well known commissioner in maritime cases. In 1346 he was vice-admiral under the earl of Arundel, admiral of the

Holy Trinity,[6] in the twenty-eighth year of the reign of King Edward III, to inform the said council upon the premises. Upon this day the aforesaid John came before the council and said that the aforesaid ship tarried in the aforesaid port through three flows and ebbs of the tide, as has been described, while the master and mariners of the said ship, having been required by the aforesaid admiral in behalf of the king to pay the aforesaid customs there, on coming to land under safe conduct, promised that they would come to land there on the morrow to pay the custom; and because the next night they sailed away with the aforesaid ship without paying the aforesaid customs, the aforesaid William as a retainer of the aforesaid John and under the direction of his said admiral pursued the aforesaid ship, and captured it near the aforesaid islands with the aforesaid merchandise as a prize of the aforesaid captain's, just as has been told, while for the said ship and merchandise he accounted with the aforesaid John and answered for these fully to the said John, as has been told before. And the aforesaid William was given in custody to Philip of Whitton,[7] to be brought before the council of our lord the king whenever this should be required in behalf of the king. And the aforesaid John was afterwards commanded by writ of the lord the king to be before the king in his chancery on the morrow of the Lord's Ascension [8] in the twenty-ninth year of our lord the king to hear his judgment upon the premises. And the said John appeared in the said chancery at Westminster upon the aforesaid day, and the aforesaid process having been read and rehearsed before John himself, in the presence of John archbishop of York, chancellor,[9] William bishop of Winchester, treasurer,[10] also the justices of both benches and others of the said council, it was adjudged that the aforesaid John should be taken and committed to the lord the king's prison in the Tower of London, and that his goods and chattels should be seized into the king's hand, until he should answer to the lord the king for the aforesaid ship and goods and chattels. So that if it shall have been proved that the aforesaid ship and goods and chattels for the aforesaid cause have been forfeited to the king as his personal property, on the ground that the said ship and goods were found and captured within the dominion of the king of England, the money forthcoming from the aforesaid property shall be kept; but if at the suit of the aforesaid merchant it shall have been proved that the aforesaid ship, goods and chattels have not been forfeited in the aforesaid manner, then the said lord the king shall answer to the aforesaid merchant for the aforesaid value.[11]

[*Endorsed:* —] Record against William Rouceby and John Avenel.

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fleet to the west of the Thames (*Cal. Cl. Rolls*, 14), in 1352 surveyor of the port of London, in 1353 surveyor of the ports to the west and south of London (*Cal. Pat. Rolls*, 376, 420, 425), and at the present time, 1354, vice-admiral of the fleet toward the west under the earl of Warwick (ibid. 521).

[8] 13 August, 1354.

[9] John of Thoresby chancellor, 1349–56.

[10] William of Edington treasurer, 1345–56.

[11] On the outcome of the case, see Introd. p. lxxiii.

B

Edwardus, Dei gracia Rex Anglie et Francie et Dominus Hibernie dilectis et fidelibus suis Andree de Gildeford,[12] seruienti nostro ad arma, Iohanni de Cobyndon[13] maiori ville Bristoll', et Iohanni Spicer[14] maiori stapule eiusdem ville, salutem. Ex gravi querela Antonii de Compaignon, domini cuiusdam nauis vocate la seinte Marie la Coronade, Petri de Kaermerdyn de Ianua, Iohannis Blaunk, Petri Euaignes et Petri de Seynches de Castre de Ispannia, mercatorum, accepimus quod, cum ipsi dictam nauem apud la Broage iuxta le Rochel in Pictauia vinis[15] et sale carcassent usque villam nostram Bristoll' ducendam, ad negociandum inde et commodum suum faciendum, ipsique velando super mare cum naui predicta versus dictam villam Bristoll' sub saluo conductu et proteccione nostris in comitiua cuiusdam flote nauium vinis carcatarum apud la Sorlyng in Cornubia pacifice extitissent, superuenerunt quidam malefactores de flota predicta ex parte magistrorum et marinariorum nauium flote predicte missi in quinque nauibus, et dictam nauem vocatam la Seinte Marie, pro eo quod dicti mercatores predictis magistris et marinariis flote illius ducentos florinos de scuto,[16] quos ab eisdem mercatoribus ad opus predictorum magistrorum et marinariorum eiusdem flote pro naui et mercandisis predictis saluandis iniuste, cum sub proteccione nostra et non in aliquo periculo fuissent, exigebant, soluere recusarunt, vi armata noctanter intrauerunt et ipsis mercatoribus ad terram in batellis pro timore mortis fugientibus nauem illam cum bonis et mercandisis in ea existentibus ceperunt et abduxerunt, in nostri contemptu et predictorum mercatorum grauem depressionem, ac contra conductum et proteccionem nostros predictos. Super quo supplicarunt sibi per nos remedium adhiberi. Nos ut prefatis mercatoribus extraneis super recuperacione nauis et bonorum suorum predictorum cicius subueniatur, et ut ipsi ad veniendum in dictum regnum nostrum Anglie cum mercandisis suis animos habeant promptiores, et eo maxime quo proteccione et saluo conductu nostris sint muniti, et eciam in ordinacione[17] per

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[12] Gildford or Guldford, king's yeoman, was appointed serjeant at arms in 1347, and was then sent to Ireland to serve as the king's purveyor (*Cal. Cl.* 21 Ed. III, 313; 24 Ed. III, 165). He was one of the two commissioners appointed 22 Jan. 1354 to arrest the captors of the Genoese ship, and bring them before the council (*Cal. Pat.* 543). In 1356 he was sent out to see to the munition of Calais (Ibid. 374).

[13] One of the common council of Bristol in 1349 (F. B. Bickley, *Little Red Book of Bristol* [1900], i, 5). Early in the year 1354 he appears at the head of a faction in the town that made an uprising against Richard le Spicer then mayor and compelled him under duress to resign his office. It was the revolutionary government that received the present writ. Soon there was a reversal and a royal commission of oyer and terminer was issued to deal with the rioters. Cobyngton was accused by his enemies of being "a seller of victuals wholesale and retail contrary to the statute thereof." In 1355 he was again in honour, being appointed by the king one of the surveyors of the port of Bristol. *Cal. Pat. Rolls,* 60, 262.

[14] Also called John Goterest, mayor in 1349 and again in 1351 (Bickley, i, 20), and collector of the tenth and fifteenth in Bristol and Gloucestershire in 1350 (*Cal. Cl. Rolls,* 184). He was conspicuously involved in the conspiracy against Richard le Spicer just told, and was indicted at

B

Edward, by the grace of God king of England and France and lord of Ireland, to his beloved and faithful Andrew of Guildford,[12] our serjeant at arms, John of Cobyngdon,[13] mayor of the town of Bristol, and John Spicer,[14] mayor of the staple of the said town, greeting. From the grave complaint of Anthony de Compaignon, owner of a certain ship called "la Seinte Marie de Coronade," Peter de Kaermerdyn of Genoa, John Blaunk, Peter Evaignes and Peter de Seynches of Castro in Spain, merchants, we have learned that when they had loaded the said ship at la Broage near la Rochelle in Poictou with wine[15] and salt to carry to our town of Bristol, for the purpose of trading there and pursuing their business, and while they were sailing upon the sea with the aforesaid ship towards the said town of Bristol under our safe-conduct and protection, and while in company with a certain fleet of ships loaded with wine they were lying peacefully at the Scilly Islands in Cornwall, there came upon them certain malefactors of the aforesaid fleet who had been sent in five ships in behalf of the masters and mariners of the ships of the aforesaid fleet, and because the said merchants, since they were under our protection and not in any peril, refused to pay the aforesaid masters and mariners of the fleet two hundred florins of the shield,[16] which for the salvage of the said ship and merchandise were unjustly exacted of the said merchants for the profit of the aforesaid masters and mariners of the said fleet, boarding by night with armed force the said ship named the "Seinte Marie," while the merchants themselves escaped to land in boats for fear of their lives, (the malefactors) captured and sailed away with the ship together with the goods and merchandise borne in her, in contempt of us, to the grave loss of the aforesaid merchants and contrary to our aforesaid safe-conduct and protection. Whereupon they supplicate that remedy may be afforded them by us. In order that aid may be quickly coming to the aforesaid foreign merchants for the recovery of their aforesaid ship and goods, and in order that they may have the more ready dispositions to come to our said realm of England with their merchandise, and that they may be defended to the utmost by our protection and safe-conduct, and also since it is contained in the ordinance[17] recently made by

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the time for having taken £400 out of the revenues which rightfully belonged to the king. But he was pardoned of every charge (*Cal. Pat. Rolls,* 180). The staple of Bristol of which he was mayor has not been noticed in the local histories until a much later time.

[15] The wine trade had been specially favoured in the Statute 27 Ed. III, st. 1, c. 6, to the effect that all merchants may bring their wines safely into England to what port shall please them, so always that the king's butler may make purveyance of wine, making payment therefor within forty days.

[16] The florin, first struck by Edward III in 1343, marks the beginning of a permanent gold coinage in England. The coin was worth about 6s. The florin with the shield here mentioned presented on the obverse side the figure of the king seated on a throne holding in his right hand a sword and in his left a shield quartered with the arms of France. H. A. Grueber, *Handbook of Coins in the British Museum* (1899), 47, 50.

[17] Ordinance of the Staple 27 Ed. III, c. 2; *Statutes of the Realm,* i, 333.

nos et consilium nostrum iam nouiter facta contineatur quod mercatoribus extraneis cum bonis et mercandisis suis infra dictum regnum nostrum Anglie venientibus super iniuriis et grauaminibus eis illatis celeris iusticia exhibeatur, volentes de nominibus malefactorum predictorum, qui dictam nauem cum bonis et mercimoniis predictis sic carcatam ceperunt et abduxerunt, ac de vero valore nauis, bonorum et mercimoniorum eorundem, necnon de dampnis per eosdem mercatores in hac parte passis plenius certiorari, assignauimus vos et duos vestrum ad inquirendum per sacramentum proborum et legalium hominum de comitatibus Glouc' et Somerset, tam infra libertates quam extra, per quos rei veritas melius sciri poterit, de premissis et ea contingentibus plenius veritatem. Et ideo vobis mandamus quod ad certos dies et loca, quos vos vel duo vestrum ad hoc prouideritis, inquisiciones super premissis in forma predicta faciatis, et eas distincte et aperte factas nobis in cancellariam nostram sub sigillis vestris vel duorum vestrum et sigillis eorum per quos facte fuerint sine dilacione mittatis et hoc breve. Damus autem vicecomitibus nostris comitatuum predictorum et omnibus balliuis, ministris et fidelibus nostris, tam infra libertates quam extra, tenore presencium in mandatis quod vobis et duobus vestrum in premissis faciendis et exequendis pareant et intendant, et eisdem vicecomitibus quod ipsi ad certos dies et loca, quos vos vel duo vestrum eis scire faciatis, venire faciant coram vobis vel duobus vestrum tot et tales probos et legales homines de balliuis suis, tam infra libertates quam extra, per quos rei veritas in premissis melius sciri poterit et inquiri.[18] In cuius rei testimonium has litteras nostras fieri fecimus patentes. Teste me ipso apud Westmonasterium xv. die Februarii anno regni nostri Anglie vicesimo octauo regni vero nostri Francie quintodecimo. Mirf[eld].[19]

C

Inquisicio capta in comitatu Glouc' coram Andrea de Gyldeford', seruiente domini Regis ad arma, Iohanne de Cobyndon', maiore ville Bristoll', et Iohanne le Spicer, maiore de stapula eiusdem ville, apud Bristoll' die Mercurii proxima post festum Sancti Petri in Cathedra[20] anno regni regis Edwardi tercii post conquestum vicesimo octauo, pretextu cuiusdam mandati eis inde directi per sacramentum Roberti atte Walle,[21] Thome Pyke, Symonis Gyene, Iohannis Lyndraper, Roberti Haleweye, Ricardi Howyn, Willelmi atte Berghe, Roberti Honybourne, mercatorum ville Bristoll', Iohannis Eustace, Walteri Galyot, Iohannis Sporyar, Iohannis Toryton, marinariorum, qui dicunt super sacramentum suum quod die Veneris in festo Sancti Iohannis Euangeliste[22] anno regni Regis supradicte vicesimo septimo, Willelmus de Rouceby, dominus nauis sui proprii, cuius nomen

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[18] A writ *venire facias*.

[19] Signature of the clerk, probably William of Mirfeld, a king's clerk, known as parson of Gimingham, dio. Norwich, rector of Shipden in Norfolk, presentee to the church of Rawreth, dio. London. *Cal. Pat. Rolls*, 27 Edw. III, 483; 28 Edw. III, 14.

[20] 23 Feb. 1354.

[21] One of the common council in 1349. Bickley, i, 20.

us and our council that speedy justice shall be afforded foreign merchants coming within our said realm of England for the injuries and hardships inflicted upon them; desiring to be more fully certified of the names of the aforesaid malefactors, who have captured and carried off the said ship loaded with the aforesaid goods and merchandise, and also (to be informed) of the true value of the said ship, goods and merchandise, as well as of the damages suffered by the said merchants in this affair, we have assigned you, or two of you, to inquire by oath of prudent and lawful men of the counties of Gloucester and Somerset, whether within liberties or without, by whom the truth of the matter may be best known, (ascertaining) more fully the truth in the premises and things relating thereto. And so we command you that on certain days and in certain places, which you or two of you shall appoint for the purpose, you make inquisitions touching the premises in the aforesaid manner, and after these (instruments) have been distinctly and publicly drawn up do you send them without delay together with this writ into our chancery under the seals of yourselves or two of you and the seals of those by whom (the inquisitions) have been made. Moreover we are commanding our sheriffs of the aforesaid counties and all bailiffs, ministers and subjects of ours, whether within liberties or without, after the tenour of these (letters) that they shall obey and attend you, or two of you, in performing and carrying out the foregoing orders, and (we are sending to) the said sheriffs that at the certain days and places, which you or two of you shall make known to them, they shall require to come before you or two of you, such prudent and lawful men of their bailiwicks, whether within liberties or without, as many as may be necessary to have the truth of the matter better known and inquired into.[18] In testimony of this thing we have had these our letters patent issued. Witness myself at Westminster the 15th day of February in the twenty-eighth year of our reign in England but of our reign in France fifteenth. Mirfeld.[19]

C

Inquisition taken in the county of Gloucester before Andrew of Guildford, serjeant at arms of the lord the king, John of Cobyngdon, mayor of the town of Bristol, John le Spicer, mayor of the staple of the same town, at Bristol on the Wednesday following the feast of St. Peter in Cathedra,[20] in the twenty-eighth year of the reign of King Edward the Third, by virtue of a certain commission assigned to them. By oath of Robert atte Walle,[21] Thomas Pyke, Simon Gyene, John Lyndraper, Robert Haleweye, Richard Howyn, William atte Berghe, Robert Honybourne, merchants of the town of Bristol, John Eustace, Walter Galyot, John Sporyar, John Toryton, mariners, who declare upon their oath that on Friday the feast of St. John the evangelist,[22] in the aforesaid twenty-seventh year of the king's reign, William Rouceby, owner of his ship, the name of which is not known to the

[22] 27 Dec. 1353.

dictis iuratis ignoratur, Edwardus Deoffe de Fowy, magister eiusdem nauis, Ricardus de Gourney de Harpetre, Iohannes Koc, Iohannes Tyr de Polrwan, Willelmus de Loughton, Robertus Chaumberleyn et Thomas Priour, soudarii de Britannia, et alii malefactores, quorum nomina dictis iuratis ignorantur, vi et armis noctanter apud Sylly intrauerunt quandam nauem vocatam Seynte Marie de Coronade, que fuit Antonii de Compaignoun, domini eiusdem nauis, et aliorum mercatorum prout in dicta commissione plenius apparet, et predictam nauem cum diuersis mercandisis in ea existentibus ad valenciam centum et viginti librarum in eadem inuentis ceperunt, abduxerunt et asportauerunt. In quorum premissorum testimonium predicti maiores et duodecim iurati presentibus sigilla sua apposuerunt.

THE ABBOT AND CONVENT OF BURTON-ON-TRENT *v.* MEYNELL[1]

c. 1355 A lour tresexcellent et tresnoble seignur le Roi prient ses poueres chapelleins, labbe et le couent de Burton sur Trente,[2] qest de vostre patronage et funde en pure et perpetuel aumoigne a prier pour vous et voz auncestres continuelment, qe come, tresexcellent seignur, de vostre grace especiale eit grante as ditz abbe et couent un oier et terminer[3] as certeins Justices deuers Monsieur William de Menyll,[4] chiualer, et autres meffesours sur diuerses felonies, trespas et autres outrages, queux ils ount fet deuers le ditz abbe et couent et lour seruantz,[5] et ore le dit Monsieur William tient les ditz abbe et couent et lour seruantz si estroit qe nul de eux nose passer nulle part hors de la dite [abbeye] de Burton, et outre les manace qe a plus tost qils comencerent [*sic*] ascune suite deuers lui qil fra ardre la dite abbeie et touz les manoirs appurtenantz a ycelle, et ad vendu touz ses terres et tenementz qil auoit pour faire un sodeyn mal al dite abbeye et passer aillours en autri pais, issint qils nosent pursuir le dit oier et terminer pour doute de destruccion de la dite Abbeye,[6] qil vous pleise pour lamour de Dieu et en oeure de charite et en saluacion de la dite abbeie graunter commission

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[1] *Ancient Petitions*, no. 12298. No endorsement.

[2] A Benedictine monastery in Staffordshire, founded in Saxon times, with charters from the time of King Eadred (Dugdale, *Monasticon*, iii, 32 f.). None of the charters however in Dugdale mention pure and perpetual almoign, as is here stated.

[3] There were two commissions of oyer and terminer; the first dated 12 Dec. 1354, (*Cal. Pat.* 28 Ed. III, 164) and the second 1 Feb. 1355. (Ibid. 29 Ed. III, 229.) There is no date to the present petition but in the order of events it seems to follow the first commission, which is here complained of, and to be followed by the second.

[4] Menil or Meynell, a family of Derbyshire and Staffordshire, known from the time of Henry II (J. Tilly, *Halls, Manors, and Families of Derbyshire*, ii, 214). Their principal seat was Meynell Langley in Derbyshire. This William was a younger son of Hugh a lieutenant of Edward III, and is mentioned as serving in the retinue of Henry Duke of Lancaster in 1348–49 and again in 1356–57. He claimed to be the heir of his brother Richard in 1365–66 (*Wm Salt Arch. Soc.* xii, 142; xiii, 48; xviii, 128.)

[5] In the commission of 12 Dec. it is stated more particularly that Meynell and his confederates came to the abbey, assaulted the abbot's men and servants, and would have burned down the building if

said jurors, Edward Deoffe of Fowy, master of the same ship, Richard Gourney de Harpetre, John Koc, John Tye of Polewain, William of Loughton, Robert Chaumberleyn, and Thomas Priour, soldiers of Brittany, and other malefactors, whose names are not known to the said jurors, with armed force by night at Scilly boarded a certain ship named the "Seinte Marie of Coronade," which belonged to Anthony Compaignoun owner of the said ship and other merchants, as more fully appears in the said commission; and the aforesaid ship together with diverse merchandise carried in it to the value, it is found, of one hundred and twenty pounds, they captured, confiscated, and bore away. In testimony of the premises the aforesaid mayors and twelve jurors have affixed their seals to this (instrument).

THE ABBOT AND CONVENT OF BURTON-ON-TRENT *v.* MEYNELL [1]

c. 1355 To their very excellent and very noble lord the king pray his poor chaplains the abbot and convent of Burton-on-Trent,[2] which is of your patronage and foundation in pure and perpetual almoign to pray continually for you and your ancestors, that since, very excellent lord, of your special grace there has been granted to the said abbot and convent an oyer and terminer[3] to certain justices against Sir William Meynell,[4] knight, and other malfeasors with regard to certain diverse felonies, trespass and other outrages which they have committed against the said abbot and convent and their servants;[5] and now the said Sir William holds the said abbot and convent so straitly that none of them dares in any way to pass out of the said (abbey) of Burton; moreover he threatens them that as soon as they commence any suit against him he will burn down the said abbey and all the manors pertaining to it; and he has sold all the lands and tenements that he had in order to do sudden harm to the said abbey, and (then) pass over into another county, so that they do not dare to pursue the said oyer and terminer for fear of the destruction of the said abbey;[6] may it please you for the love of God and in way of charity and for the salvation of the said abbey to grant by writ commission to some valiant man to seize the

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they had not been prevented. Thence they went by night to the abbot's town of Branston, broke into his houses there, dragged his men and servants from their beds and beat them. And then they went to the abbot's grange of Shobnall, assaulted his men there and compelled them to swear to serve the abbot no longer. And when the said William was required by some of the knights of the neighborhood to desist, he swore that he would do worse evils so far as he could until he should have fulfilled his will. So that the abbot and his men do not dare to go forth to survey their lands, nor the men and servants to till their lands or do other service for the abbot, who has thus lost the profit of his lands and the service of his men for some time.

[6] In the second commission of 1 Feb. it is stated that Meynell made an attack on the abbot's manor of Hanson in Derby, broke the close and houses there, drove off 260 sheep, assaulted his men and servants and compelled them to swear that they would no longer serve the abbot.

en brief a ascun certein vaillant homme de prendre le dit Monsieur William par son corps, et del amener deuant vous et vostre conseil[7] a respondre des felonies et trespas auandites, qar sil ne soit restreint de sa malice il destruera la dite abbeie pour touz jours et tut le pais enuiroun.

LOMBARDS *v.* THE MERCERS' COMPANY[1]

A

1359 Henri Coue
William Coue
Ceux sont qi fesoient faire le mal dont le dit William Coue feust mis en la Tour de Londres et illoeqes demora pur un certein temps et puis il feust lessez par meinprise.

Geoffroi Bernham vallet a Henri Coue est celui qi amena la compaignie souz escripte a faire le dit mal.

Thomas Maldone est celui qi feust pris et amenez deuant le conseil nostre seignur le Roi e illoeqes il conoist qil feust un de eux qi fesoient le dit mal e qe le dit Geffrei feust lour duyttour a ceo faire, dont le dit Thomas feust mis a la Tour e puis lesse par meinprise.

William de Wodeford
Thomas Euerard
Adam Wroxham
Henri Forester
Ceux sont les persones qi fesoient le dit mal nient prises mes fuez e puis lessez par meinprise.

Sur quei prions qe pleise a nostre tresredoute seignur le Roi e son bon conseil denuoier pur les persones auantdites, et tiele chastisement a eux ordiner qe desore ne soient si hardiz de nous faire ne procurer plus de mal ne moleste par nulle voie de malice ou denuie qar autrement il sont en purpos e ferront en certein bien temprement plus pis qe unqes ne ont fait pardeuant.

Item qe pleise a nostre tresredoute seignur le Roi e son conseil de faire venir deuant sa persone propre les Mestres e les plus grantz del mestier e de prendre de eux sibone e sufficiante seurtee qe james ils ne facent a nous nul mal ne vileinie ne soeffrent estre a nous fait par lour assent en manere come desus est dit, ou autrement ne purrons viure ne demourer en pees e meement si nostre seignur le Roi soit hors Dengleterre.

Les noms des Mercers de Londres:

Johan Bernes visconte de Londres
Simon Worstede Alderman
William Todenham
Johan Worstede
Alein Euerard
Johan de Stapele
Wauter Berneye
Johan Wychyngham
Thomas Starkol
Johan Redyng
Adam Euerard (nichil habet ubi potest premuniri)
Wauter Bret
Nichol Bedyngton (mortuus est)
Johan Elesdon
Nichol Plunket
Henri Coue
William Coue

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[7] On the significance of this prayer see Introd. p. lxxiv.

[1] *Parliamentary and Council Proceedings* (Chancery), file 8, no. 3.

body of the said Sir William, to bring him before you and your council[7] to answer for the aforesaid felonies and trespass, for if he is not restrained from his malice he will destroy for ever the said abbey and all the country around.

LOMBARDS *v.* THE MERCERS' COMPANY[1]

A

1359

Henry Cove William Cove	These are they who caused the evil to be done for which William was put in the Tower of London and there remained for a certain time and then he was released by mainprise.

Geoffrey Bernham servant to Henry Cove is he who led the underwritten company to commit the said evil.

Thomas Maldon is he who was taken and brought before the council of our lord the King and there he acknowledged that he was one of those who did the said evil and that the said Geoffrey was their leader in doing that for which the said Thomas was put in the Tower and then released by mainprise.

William Woodford Thomas Everard Adam Wroxham Henry Forester	These are the persons who did the said evil. They were not taken but driven off and then released by mainprise.

Whereupon we pray that it may please our very dread lord the king and his good council to send for the persons aforesaid and to ordain them such chastisement as that henceforth they may not be so bold to do or procure further evil against us nor to molest us by any way of malice or envy for otherwise they are purposed and will do very shortly much worse than ever they have done before.

Also that it may please our very dread lord the king and his council to cause to come before him sitting in person the Masters and the chiefs of the mistery and to take of them such good and sufficient surety that they may never do us any evil or villany nor suffer it to be done to us by their assent in manner as is aforesaid, or otherwise we shall not be able to live nor dwell in peace and especially if our lord the king be out of England.

The names of the Mercers of London:

John Bures sheriff of London
Simon Worsted Alderman
William Totenham
John Worsted
Alain Everard
John Stapeley
Walter Berneye
John Wichingham
Thomas Starkol
John Reading
Adam Everard (has no means against which to proceed by premunire)
Walter Bret
Nicholas Beddington (dead)
John Elesdon
Nicholas Plunket
Henry Cove
William Cove

B

Edwardus dei gracia Rex Anglie et Francie [2] et Dominus Hibernie vicecomitibus London,[3] salutem. Quibusdam certis de ca[usis tibi precipimus] firmiter injungentes quod premunire faciatis[4] Henricum Coue,[5] Willelmum Coue,[6] Galfridum Bernham,[7] Thomam Mouldone,[8] Willelmum [Wodeford],[9] Thomam Euerard,[10] Adam Wroksham,[11] Henricum Forester,[12] Johannem Berne,[13] Simonem Worstede,[14] Willelmum Totenham,[15] Johannem Worstede,[16] Alanum Euerard,[17] Johannem de Stapele,[18] Walterum

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[2] After 1340.

[3] John Barnes or Byernes and John Bures, sheriffs 1358–59, mentioned below. The sheriffs were elected on St. Matthew's Day (21 September) and came into office on Michaelmas Eve (28 September). *Liber Albus*, pp. 43, 45.

[4] The following writ of premunire is given in Palgrave, *Original Authority of the King's Council* (1834), p. 131. See also *Select Cases in Chancery* (Selden Soc. 1896), p. xiv.

[5] Henry Cove, citizen and mercer of London, appears as Henry de Cove as a witness to a mercer's will in 1355 (*Cal. Close Rolls*, p. 207). He is mentioned as a plaintiff in a case against a debtor on 4 July, 1358 (*Cal. Pat. Rolls*, p. 83), and in another similar case on 11 Feb. 1359 (ib. p. 167). He procured the release of Thomas Everard (n. 10, infra) and the arrest of Sharpenham, the latter also a mercer, it is not clear on what grounds. See Introd. pp. lxxix–lxxx, supra. Henry Cove's name is on the list of leading mercers.

[6] William Cove of London "on 1 December, 1357, mainperned before the king's council for Thomas of Maldon of London to answer for certain trespasses committed in that city upon certain merchants of Lombardy with which he is charged" (*Cal. Close Rolls*, p. 432). The list of six mainpernors is as given below. It is curious that William Cove had himself been imprisoned in the Tower and released by mainprise, as appears below. His name is on the concluding list of leading mercers.

[7] Servant to Henry Cove, and alleged by the complainants to have been the chief leader in the outrage under investigation.

[8] Described as "Thomas de Maldon of London" and as having been on 1 December, 1357, "a long while detained (in the Tower) without his fault." Vide n. 6 and Introd. p. lxxxi, supra.

[9] This name does not occur in the list of leading Mercers given at the end of A; nor does he appear ever to have held any office in the City. He was presumably, therefore, like Bernham, a person of inferior consequence. Out of his six mainpernors, as given below, three were mercers, which points to his probably having been a member of that company, as indeed do the circumstances of the outrage.

[10] An order had issued for the arrest of "Thomas Everard of London, mercer," but had not been executed (vide infra, p. 46). Upon his petition to the council he was allowed the benefit of mainprise. The charge against him was the same as that against Maldon (note 6, supra) 4 March, 1358. (*Cal. Close Rolls*, p. 495). In 1366 Alan Everard, mercer, probably a relation, bequeathed to him his "term in a brewery situate opposite St. Laurence in the Jewry." (*Calendar of Wills in the Court of Husting, London* [1890], ii, 97.) For this combination of trades, permitted by the custom of London, see Dr. W. Cunningham, *Growth of English Industry and Commerce* (4th ed. 1895), p. 345.

[11] In *Cal. Close Rolls*, 1 November, 1357, p. 432, is an order to the sheriffs "to cause the taking of Adam de Wroxham of London, mercer, to be superseded by a mainprise, upon his instant petition, as he fears that he may be impeached and troubled for certain trespasses committed in that city upon certain merchants of Lombardy with which he is charged, and is ready to stand to right in all things, and has found before the Council" his seven mainpernors as given in the text. It is to be observed that Wroksham is not in B described as "mercer" nor is his name in the list of Mercers at the end of A, while of his mainpernors only Alan Everard is to be found there. From the order to the sheriffs it would appear that the City authorities had contemplated dealing with the case, but that the council, probably because of the City's hostile disposition towards aliens, had taken it into its own hands. It

B

Edward by the grace of God King of England and France [2] and Lord of Ireland to the Sheriffs of London [3] Greeting. For certain causes concerning us we command you, firmly enjoining you that you forewarn [4] Henry Cove,[5] William Cove,[6] Geoffrey Bernham,[7] Thomas Moulton,[8] William [Woodford],[9] Thomas Everard,[10] Adam Wroksham,[11] Henry Forester,[12] John Berne,[13] Simon Worsted,[14] William Totenham,[15] John Worsted,[16] Alan Everard,[17] John Stapele,[18] Walter Berneye,[19] John Wich-

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appears later that Wroksham escaped immediate arrest but was subsequently taken and afterwards released on mainprise.

[12] A leading malefactor who fled from justice but was afterwards allowed mainprise, vide p. 46, infra, and Introduction, p. lxxxi.

[13] This is presumably the Johan Bernes on the list of leading Mercers in A, then sheriff of London. Together with Simon de Wursted, mentioned in this case, and Richard de Wursted, he appears on 5 April, 1356 as an executor of William de Causton, late citizen and mercer whose apprentice he had been, all three executors being described as "citizens and mercers of London" (*Cal. Pat. Rolls*, p. 366; cf. *Close Roll*, 11 June, 1355, p. 201 and 21 June, 1355, p. 207). He was sheriff in 1358–59, together with John Bures, whose name appears in these papers. In 1370–71 and again in 1371–72 he was mayor, having during his first term of office Sir William Walworth, afterwards the famous slayer of Wat Tyler, as one of the sheriffs. It is recorded of him by Stow that he "gave a Chest with three Locks, and one thousand Marks to be lent to poor young men" (*Survey of London*, 6th ed. 1755, ii, 218.)

[14] See last note. As the list of leading mercers shows, he was an alderman. His will, dated 12 June, 1364, was proved in the Court of Husting in 1366. *Calendar*, ii, 95.

[15] Sheriff, 1354–55. See *Close Rolls*, 29 Ed. III (1355), p. 207. Stow has erroneously given the name as "Nottingham." In *Close Roll*, 28 January, 1359, p. 486, certain indentures are entered between William de Tudenham, citizen and mercer of London, and John Mayn, the king's serjeant at arms. His will, dated 20 December, 1371, was proved in April, 1371. (*Calendar of Court of Husting*, ii, 144.) In the list of mercers the name is spelt Todenham.

[16] John Worstede appears in the list of mercers. His will is printed in the *Calendar of the Court of Husting*, ii, 114, dated London, 10 August, 1368, and proved in the same year. Like these wills generally it contains numerous gifts to pious objects; but it is notable as leaving "to the hall of Balliol, Oxford, twenty shillings." Ibid. 115.

[17] A person of this name "staying in England" in March, 1357, had business of some sort with Ireland, but was probably not the same individual as Alan Everard, citizen and mercer of London, in 1360. See *Pat. Rolls*, 1357, p. 516 and cf. *Close Rolls*, 8 Nov. 1360, p. 138. His will dated October, 1366, was proved in the following month (*Cal. of Court of Husting*, ii, 97). It is to be noted that in the list which follows he appears as "of London," which suggests that it was necessary to distinguish him from another of the same name. This other was perhaps his nephew, the son of his brother William, mentioned in his will. He appears as a mainpernor of no fewer than five of the accused.

[18] Presumably the Johannes Stable who appears on the next list as a mainpernor of William de Wodeford. As John Stable he was on 10 June, 1355, one of the witnesses to a deed of William de Causton mentioned in n. 13, supra. The name appears as "Johan de Stapele" in the A list of mercers, supra.

[19] Walter Berneye, citizen and mercer, was a person of some importance. On 2 August, 1358, he obtained a letter of privy seal, exempting him from being put on assizes, juries, and from appointment as mayor, sheriff, escheator, coroner, or other bailiff or minister of the king against his will (*Pat. Roll*, p. 91). He was returned to parliament for the City in 1360 and was sheriff of London in 1360–61 (ib. p. 568; Stow, ii, 217). His will, dated at Norwich, 23 February, 1377, but proved in the Court of Husting in 1379, suggests that he came from that city (*Calendar of Court of Hust-

Berneye,[19] Johannem Wychyngham,[20] Thomas Starkolf,[21] Johannem Redynge,[22] Adam Euerard,[23] Walterum Bret,[24] Nicholaum Bedyngton,[25] Johannem Ellesdone[26] et Nicholaum Plunket de London[27] quod quilibet eorum sub pena[28] Centum librarum in propria persona sua sit coram consilio nostro[29] apud Westmonasterium hac instanti die Martis[30] ad loquendum cum eodem consilio super hiis que eis tunc ibidem exponentur ex parte nostra[31] et ad faciendum ulterius et recipiendum quod per dictum consilium[32] ordinari contigerit in premissis. Et hoc sub incumbenti periculo nullatenus omittatis. Et habeatis ibi nomina illorum per quos eos premunire feceritis et hoc breve. Teste me ipso apud Westmonasterium viij die Julii anno regni nostri Anglie tricesimo tercio, regni vero nostri Francie vicesimo.[33]

per consilium. Burstall.[34]

[*Endorsed:* —] Virtute istius brevis premunire fecimus Henricum Coue, Willelmum Coue, Galfridum Berham, Thomam Moulton, Willelmum Wodeford, Thomam Euerard, Adam Wroksham, Henricum Forester, Johannem Berne, Simonem Worstede, Alanum Euerard, Johannem de Staple, Walterum Berneye, Johannem Wychyngham, Thomam Starkolf, Johannem Redynge, Walterum Bret, Johannem Ellesdone et Nicholaum Plunket infrascriptos quod sint coram vobis ad diem et locum in brevi contentos ad faciendum quod interius precipitur sub pena in brevi contenta per Johannem Penne et[35]
Johannem Broun.[36]

Adam Euerard infrascriptus nichil habet in balliva nostra ubi potest premuniri.

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ing, ii, 205). It also is notable as containing, among many religious bequests, one to "the collegiate clerks of Baliolehalle Oxford." He also left to three scholars £40 "ad exercendas scholas" at Oxford or Cambridge (ibid.).

[20] In the list of leading mercers. A mainpernor of William de Wodeford and of Thomas de Maldon, vide infra.

[21] The name is given in the concluding list of leading mercers as Starkol. His will, in the name of Starcolf, dated 10 July, 1361, was proved in the same year. *Cal. of Court of Husting*, ii, 35.

[22] In the A list of leading mercers.

[23] The A list of mercers shows that this is not a mistake for Alan, but is another person, apparently either a pauper, or not a resident in London.

[24] In the A list of leading mercers.

[25] Dead.

[26] In the A list of leading mercers as Elesdon. But in the *Close Roll*, 1 November, 1357, p. 432, where he appears, as here, as bail for "Wroxham," the name is given as "John de Ayleston."

[27] Nicholas Ploket (*sic*), citizen and mercer of London, "for a great sum of money which he has paid down," purchased in 1355 the reversion, on her death or marriage, of certain tenements bequeathed to Cristina, widow of William de Causton. See n. 13, supra. *Close Rolls*, 1355, p. 207.

[28] The insertion of the penal clause, here noticed for the first time among such writs, is a step toward the more noted writ of subpoena. On the origin and authorship of this writ, see Introduction, p. xxxix.

[29] The phrase *coram nobis et* appears to have been inserted temp. Henry IV. See *Select Cases in Star Chamber*, p. xxiii.

[30] As 8 July was Monday, on which day the writ was issued, and it could presumably not be served before Tuesday, this must have meant the Tuesday next after its service on the sheriffs, that is, 16 July.

ingham,[20] Thomas Starkolf,[21] John Reading,[22] Adam Everard,[23] Walter Bret,[24] Nicholas Beddington,[25] John Ellesdone,[26] and Nicholas Plunket of London [27] that each of them under penalty [28] of a hundred pounds be in his own person before our council [29] at Westminster on this next coming Tuesday [30] to plead with the same council upon those matters which shall then be there exhibited to them on our part [31] and further to do and receive that which shall happen to be ordained in the premises by the said council.[32] And this you are by no means to omit at your instant peril. And you are to have there the names of those by whom you shall have forewarned them and this writ. Witness myself at Westminster on the eighth day of July in the thirty-third year of our reign over England but the twentieth of our reign over France.[33]

By the Council. Burstall.[34]

[*Endorsed:* —] By virtue of this writ we have forewarned the within written Henry Cove, William Cove, Geoffrey Bernham, Thomas Moulton, William Woodford, Thomas Everard, Adam Wroksham, Henry Forester, John Berne, Simon Worsted, Adam Everard, John Stapeley, Walter Berneye, John Wichingham, Thomas Starkolf, John Reading, Walter Bret, John Ellesdone and Nicholas Plunket to be before you at the day and place contained in the writ to do according to the within command under the penalty contained in the writ by
John Penne [35] and
John Brown.[36]

The within written Alan Everard has nothing in our bailiwick whereby he can be forewarned.

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[31] On these words "*ex parte nostra*" see *Select Cases in the Star Chamber* (1477–1509), p. xxii.

[32] The form under Henry IV became *per nos et dictum consilium*. Ibid. xxiv.

[33] 8 July, 1359.

[34] The researches of Foss were not successful in tracing the career of William Burstall further back than 1371, when jointly with three others he was appointed a commissioner of the Great Seal during the absence of the chancellor, Sir Robert Thorpe. (*Lives of the Judges* [1851], iv, 38.) The publication of the *Close Rolls*, however, discloses that in 1355 he was a clerk of the chancery (22 February, *Close Roll*, 184; 17 May, 1355, ib. 220). He appears, unless it were another of the same name, to have also held the livings of Mittalton and Deukeshull (Salop), in the diocese of Hereford, which he resigned in 1358 (*Pat. Rolls*, p. 64). That it was the same person is the more probable from the fact that in 1375 he held the living of Hoghton in the diocese of Durham, as recorded by Foss. These facts indicate that he was a non-resident pluralist. The rest of his biography will be found in Foss, who is, however, mistaken in saying that his name does not occur after his supersession as keeper of the rolls by John de Waltham on 8 September, 1381 (*Pat. Rolls*, p. 41), for on the following 6 October he, with six others, paid for a license to alienate in mortmain the manor of Cadbury to the prior and convent of Bisshemade (Bushmead, Beds.), ib. p. 51, a property which, however, appears to have been parted with by the priory before the Dissolution (Dugdale, *Monast.* vi, 284).

[35] "Clerk," and deputy-clerk of the recognisances of debts in London. 28 June, 1359. *Pat. Rolls*, p. 232.

[36] A person of this name was a king's serjeant at arms, and may not improbably have been this signatory. *Pat. Rolls*, March, 1361, p. 584.

Nicholaus Bedyngton infrascriptus mortuus est. Ideo de eo nichil fecimus.

C

[Responsio] Johannis Bures et Johannis [de Byerne]s vicecomitum.[37]

Manucaptores[38] Willelmi de Wodeford:
Johannes Stable
Adam Stable[39]
Iohannes Wychyngham
Galfridus Colwell
Laurencius Conestable[40]
Alanus Euerard

Manucaptores Nicholai de Sharpenham[41] Mercer:
Johannes Lambourne[42]
Thomas Beket[43]
Simon Plummer[44]
Elias de Braghing[45]
} de Comitatu Surrie

Manucaptores Thome Euerard de London Mercer:
Henricus Coue
Adam Stable
Simon de Reynham[46]
Willelmus de Somerford[47]
Alanus Euerard de London
} de London

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[37] John de Bures and John de Byernes (in Stow, Barnes) are mentioned as sheriffs of London in 1358–59, when they paid a sum to the receipt of the Exchequer on behalf of the commonalty of Middlesex in substitution for ten mounted archers which the county had been ordered to raise for foreign service (*Pat. Rolls*, 10 August, 1359, p. 252). John Bures was perhaps the John Burs, draper, who in 1375 was a legatee of Thomas de St. Alban (*Cal. of Court of Husting*, ii, 172). The will of John Biernes, alderman, dated July, 1375, was proved in the same year. He constituted by it the Grocers, Drapers and Mercers Companies and the City Chamberlain trustees of a fund for the loan of money not exceeding £10 "to such as are in need, security being taken for the same" (ibid. p. 150). His name appears in the A list of leading mercers as Bernes.

[38] "Mainpernors, *Manucaptores*, are those Persons to whom a Person is delivered out of Custody or Prison, and they become security for him, either for appearance or satisfaction: they are called *Manucaptores*, because they do it as it were *manu capere* et ducere captivum e custodia vel prisona." J. Cowel, *Interpreter*. Coke defines differently, being at pains to distinguish mainprise from bail. "Every bail is a mainprise (for those that are bail take the person bailed into their hands and custody) but every mainprise is not a bail, becase no man is bailed but he that is arrested, or in prison, for he that is not in custody or prison cannot be delivered out. . . . But a man may be mainperned which never was in prison, and therefore mainprise is more large than bail." Inst. 179. It is clear, however, from these papers that the word mainprise was currently used as equivalent to bail, as may be seen from the French note on the case of Henry and William Cove, while the defendants Wodeford, Everard, Wroxham and Forester had apparently never been in custody, but are described also as on mainprise. See Introd. p. xl, supra.

[39] Witness to a deed of conveyance of land in Norfolk to Walter de Berneye (see n. 19, supra) on 6 February, 1362. *Close Rolls*, p. 386. Apparently connected by

The within named Nicholas Beddington is dead. We have therefore done nothing in his case.

C

[Answer] of John Bures and of John [de Byerne]s [37] sub-sheriffs.

Mainpernors[38] of William Woodford:

John Stable
Adam Stable [39]
John Wichingham
Geoffrey Colwell
Laurence Constable [40]
Alan Everard.

Mainpernors of Nicholas Sharpenham [41] Mercer:

John Lambourne [42]
Thomas Beket [43]
Simon Plummer [44]
Elijah Braughin.[45]
of the county of Surrey

Mainpernors of Thomas Everard of London Mercer:

Henry Cove
Adam Stable
Simon Reynham [46]
William Somerford [47]
Alan Everard of London.
of London

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marriage with Alan Everard (n. 17, supra). *Cal. of Court of Husting*, ii, 97.

[40] There is nothing to show that Wodeford or his mainpernors Colwell and Conestable belonged to the Mercers.

[41] See Introd. p. lxxx.

[42] A witness on 27 January, 1356, to a conveyance to the king by the Prior of Bermundeseye, John de Cusancia, of divers messuages, &c. With him as witnesses were Ellis de Braghyng (n. 45, infra) and Simon le Plumber of Suthwerk (n. 44, infra).

[43] On 15 October, 1358, Thomas Beket was commissioned with three others to make inquisition into the deaths of two men killed at Malwedon (qu. Manuden), Essex, and to deliver those guilty to the sheriff at Colchester. *Pat. Rolls*, p. 153.

[44] Simon Plummer, Plomer, or le Plumber, of Southwark, was a man of note in that borough. His name appears as a witness to deeds dated "Suthwerk" in July, 1354, January, 1356, and November, 1357 (*Close Rolls*, pp. 83, 295, 427). In that of 1356 the deed was the conveyance of a reversion by the prior of Bermundeseye to the king, in that of 1357, a deed of release of certain lands to the Southwark diocesan, William de Edyndon, bishop of Winchester. He was returned to parliament for Surrey in 1360, and again in 1361. (*Members of Parliament*, 1878.)

[45] Elias or Ellis de Braghing, or Braughyngg was evidently on terms of alliance with Plummer, for he appears with him as a witness to the deeds of 1354 and 1356 already mentioned and was returned member of parliament for the borough of Southwark in 1358. (Ibid.)

[46] In the Patent Roll for 12 May, 1362, p. 189, is a pardon to Alesia later the wife of Ralph de Saint Oweyn, a defaulting debtor to "Simon de Reynham, citizen and mercer of London."

[47] One of the mainpernors of Thomas de Maldon, of London, on 1 Dec., 1357, and of Thomas Everard on 4 March, 1358.

Manucaptores Thome de Maldone:

[Alan Ever]ard
Adam Wroxham
Willelmus de Grantham[48]
Willelmus de Maldone
Willelmus Somerford
Willelmus Coue
} de London

Manucaptores Ade de Wroxham:

Ricardus Lacer[49]
Johannes de Wesenham[50]
Johannes Mayn[51]
Henricus de Brysele[52]
Alanus Euerard
Iohannes de Aylestone[53]
Galfridus de Neutone[54]
} de London

D

Alanus Euerard et alii manuceperunt Thomam Euerard Adam Wroxham et Henricum Forester.

Willelmus Weld[55] et alii manuceperunt Henricum Coue.

Henricus Coue et alii manuceperunt Willelmum Coue.

Alanus Euerard et alii manuceperunt Willelmum Wodeford.

Johannes de Wychyngham et alii manuceperunt Thomam de Maldone.

Close Rolls, pp. 432, 495. See nn. 6, 8, supra.

[48] Also a mainpernor of Maldon on 1 Dec. 1357. Vide supra.

[49] Richard Lacer, or Lacier, Alderman of London, mercer; witness to a grant of shops in London in February, 1358 (*Close Rolls*, p. 494). His will, dated 25 July, 1361, is in the *Calendar of the Court of Husting*, ii, 59. Richard Lazer is given by Stow as a variant for Richard Leget, mayor in 1345–46, and may possibly have been the same man. (*Survey*, ii, 217.)

[50] John of Wesenham "the king's merchant" was an agent employed by Edward III to take over the money raised as subsidy in Northumberland (*Close Rolls*, 15 June, 1355, p. 135), as well as for other financial transactions (ib. p. 278). He appears also to have been an exporter of corn (*Pat. Rolls*, 20 May, 1357, p. 545) and in 1360 contracted to provide at Lynn supplies for the victualling of Calais (*Close Rolls*, 23 January, p. 607). His transactions with the crown were both on a large and a varied scale. On 1 February, 1357 he received a year's lease of all the temporalities of the important bishopric of Ely, "rendering to the king in the Wardrobe 3,740 marks" (£2493, 6s. 8d.) (*Close Rolls*, p. 392). He was in 1357 an owner of house property in London (*Pat. Rolls*, p. 636). There is nothing to show that he was a member of the Mercers' Company.

[51] John Mayn, the king's sergeant at arms, frequently appears in the Close Rolls and Patent Rolls. He must have been a man of means, for on 19 December, 1354, the Prior of St. Bartholomew's, Smithfield, acknowledges a debt to him of £40 (*Close Rolls*, p. 99; cf. ib. pp. 78, 324, &c. and *Pat. Rolls*, 4 Jan. 1361, p. 150.) In 1358 he purchased lands in Surrey from William de Tudenham (see n. 15, supra). He was frequently employed to arrest criminals and bring them before the king and council (6 March, 1356, *Pat. Rolls*, p. 395; cf. ib. pp. 450, 496). But he was also employed in the more serious duty of a commissioner to inquire into and report on grievances, as in the case of a complaint of Venetian merchants against the town of Bristol on 6 February, 1355, ib. p. 225, and of a shipwrecked crew against Winchelsea, Rye, &c. (11 January, 1356, ib. p. 500). That sergeants at arms had and

Mainpernors of Thomas Maldone:

[Alan Ever]ard
Adam Wroxham
William Grantham [48]
William Maldon
William Somerford
William Cove.
of London

Mainpernors of Adam de Wroxham:

Richard Lacer [49]
John Wesenham [50]
John Mayn [51]
Henry Bryseley [52]
Alan Everard
John Aylestone [53]
Geoffrey Newton.[54]

D

Alan Everard and others have gone surety for Thomas Everard, Adam Wroxham, and Henry Forester.

William Weld [55] and others have gone surety for Henry Cove.

Henry Cove and others have gone surety for William Cove.

Alan Everard and others have gone surety for William Woodford.

John Wichingham and others have gone surety for Thomas Maldone.

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availed themselves of ample opportunities to enrich themselves appears from a complaint of the Commons in 1399 (*Rot. Parl.* iii, 439 b). See *Select cases in the Star Chamber* (1477–1509), p. xxvii, n. 1.

[52] Henry of Brysele, Briseleye, Brisele, Brusele, or Brysely was, like John Wasenham, a man of business and, apparently, not a Mercer. We first meet with him as " master of the moneys," in modern parlance, master of the mint, in 1353 (*Pat. Rolls*, 26 February, 1354, pp. 7, 12). On 31 May, 1355 he was promoted to the lucrative office of " changer and assayer of the king's moneys in his charges in the Tower of London and elsewhere " (ib. p. 238), but was displaced by Hugh de Wychyngham on 7 November, 1356 (ib. p. 467). He was, however, appointed by the king's council on 16 July, 1358, one of two commissioners empowered " to take in the City of London and the suburbs carpenters, masons, and other workmen for the repairs of the houses ordained for the works of the king's money in the Tower of London, and put them to the work to stay therein at the king's wages so long as shall be necessary, taking and imprisoning any found contrariant or rebellious." (*Pat. Rolls*, p. 87.) He received a similar commission on 5 June, 1360, " to select miners and other workmen " to work in the king's mines in Devonshire, he and his fellow-commissioner being styled " masters of the king's mines in the county of Devon" (ib. p. 371). As the two were already lessees of all the king's mines of gold and silver in that county (8 Feb. 1360, ib. p. 336), it is evident that the commission was to assist them in compelling miners to work for them. That he was also engaged in some business associating him with mercers appears from a recognizance by which he, with three mercers, John de Wesenham and three others, was bound in £2000 to the late keeper of the king's Wardrobe (16 February, 1359, *Close Rolls*, p. 611).

[53] See n. 26, supra.

[54] Not in the A list of leading Mercers. It would appear, therefore, that only Lacer and Alan Everard, among the seven mainpernors of Wroxham, belonged to the Company.

[55] In the Close Roll for August, 1354, p. 89, William atte Welde is given as one of the two sheriffs. The name appears in

Ista cedula scripta fuit in consilio juxta informacionem datam per quosdam Merceros Londinienses tunc ibidem existentes, pro eo quod rotulus de manucapcionibus predictis non fuit ibi presens.

PARSON OF LANGAR *v.* CONYNGSBY[1]

1361 A nostre seignour le Roi et son bone conseil moustre Thomas, persone de Langar[2] el countee de Notyngham, qe come la male mesme cesti Thomas feust emble deuant Chartres[3] en Fraunce, et le garsoun le dit Thomas poursuit en la Marchalcie deuant Conestable et Marchal[4] deuers un homme, seruant a monsiour William de Conyngesby,[5] et en la dite Marchalcie furent ajuggez de combatre,[6] et par cause qe le dit Thomas soi dota de irregulertee[7] il fist retrere son dit vadlet de sa seute, et puis vint le dit sire William en la dite Marchalcie et sui par bille deuers le dit Thomas contenante par sa pleinte qe, par entre le dit Thomas et son vadlet et par abette le dit Thomas confedere entre eaux deux, auoit le vadlet le dit Thomas sui deuers le vadlet le dit sire William a damage le dit sire William de Centz Marcz, queux damages lui fueront ajuggez, et ceo en la absence le dit Thomas en contre la leie.[8] Et par cause del errour susdit le Roi prist le cause en sa main, et journa les parties deuant son conseil en Engleterre destre deuant eux a juger par cause la Marchalcie nad conusaunce de tiel plee. Et puis la venue le Roi nostre seignour en Engleterre vient le dit sire William et plusours autres en sa compaigne vindront en la jornant a la meisoun le dit Thomas, person de Langar, et lui pristront hors de son lyt et lui amenero[nt] a la meson le sire Tiptoft et puis en Shirewode[9] et illeoqes lui fieront faire fin de Centz Marcz, paiant en mayn x li. et lier en iiij C. marcz en seurte de paiement de les Cent marcz susditz aiours entre eux acordez, et de illeoqes lui ameneront tanqe a Lenton[10] et lui fieront jurer sur la corps Dieu sacre

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Stow's *Survey*, ii, 217, as Wilde with a variant Wold.

[1] *Ancient Petitions*, no. 2777; cited in Palgrave, *Original Authority*.

[2] A parish and manor in Bingham 9 miles from Newark. The church was called St. Aubrey's. The manor and advowson of the church belonged at this time to John Lord Tiptoft (Dugdale, *Baronage*, ii, 40; *Cal. Cl. Rolls*, 28 Ed. III, 66–67).

[3] On his campaign begun in Oct. 1359, Edward came in the following April to Chartres where negotiations leading to the Peace of Brétigny were begun. Ramsay, *Genesis of Lancaster* (1913), i, 438.

[4] The petitioner has confused the marshalsea, the court of the king's household, under the steward and marshal, and the court of chivalry before the constable of England and the earl marshal. Probably there was a merging of the two during the king's sojourn at Chartres. There is, however, an essential difference between the marshalsea, which had its foundation in the common law (Coke, *Fourth Inst.* ch. xviii) and the court of chivalry, which followed the civil law (Coke, ch. xvii; L. W. V. Harcourt, *The Steward and Trial of Peers* [1907], 362 f.). It will presently appear that the case in question pertained to the latter court.

[5] Conysby or Coningsby, a family of Shropshire origin, traced from the time of Edward I (R. E. C. Waters, *Memoirs of the Chesters of Chicheley* [1878], 259). This William was son of John of Morton Bagot in Warwickshire and had estates in Worcestershire. In 1351 he was reported as going on the king's service to Calais (*Cal. Pat.* 25 Ed. III, 94), and in the campaign of 1359–

This schedule was written in the council according to information given by certain mercers of London then and there present, for the reason that the roll of the suretyships aforesaid was not there at hand.

PARSON OF LANGAR *v.* CONYNGSBY[1]

[1361]

1361 To our lord the king and his good council sheweth Thomas parson of Langar[2] in the county of Nottingham that whereas the portmanteau of the said Thomas was stolen before Chartres[3] in France and the servant of the said Thomas sued a certain man, servant of William Conyngsby,[5] in the marshalsea before the constable and marshal,[4] where they were adjudged to combat,[6] and because the said Thomas was afraid of (incurring) irregularity[7] he withdrew his said servant from his suit; and then came the said Sir William into the said marshalsea and entered suit by bill against the said Thomas, alleging in his plaint that between the said Thomas and his servant by abetting of the said Thomas an understanding of the two had been reached, (whereby) the servant of the said Thomas brought suit against the servant of the said Sir William damaging the said Sir William (to the extent) of a hundred marks, and these damages were awarded him in the absence of the said Thomas contrary to law.[8] And because of the aforesaid error the king took the case into his hand, giving a day for the parties to be before his council in England there to be judged because the marshalsea has no cognisance of such a plea. And since the return of our lord the king to England there came the said Sir William and many others in his company at daybreak to the house of the said Thomas parson of Langar, dragging him out of his bed and taking him to the house of Lord Tiptoft, and then into Sherwood[9] and there forced him to make fine in 100 marks paying £10 down and giving bond for 400 marks to secure the payment of the 100 marks agreed upon between them; thence they took him to Lenton,[10] and before they permitted him to leave their company made him swear on the sacred body of God to keep the aforesaid covenant. And

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60 he was in the company of the earl of Warwick. (Ibid. 34 Ed. III, 386.) In 1360 in consideration for his good service on this expedition he was pardoned for the death of Thomas Clynton (ibid.).

[6] In the court of chivalry suits were begun by bill and trial was by witnesses, or failing these, as in the present case, by wager of battle. Harcourt, 366.

[7] A clerk was forbidden by the law of the church to go before a lay court and seek a judgment of blood (Pollock & Maitland, *Hist. Eng. Law* [1898], i, 456). The church dealt severely with blood-guiltiness among the clergy. O. J. Reichel, *Manual of Canon Law* (1896), i, 239.

[8] "One thing our law would not do. It would exhaust its terrors in the endeavour to make the defendant appear, but it would not give judgment against him until he had appeared, and, if he was obstinate enough to endure imprisonment or outlawry, he could deprive the plaintiff of his remedy." (Pollock & Maitland, ii, 594.) Whether the court of chivalry was bound by this law was of course the question. As to the appeal on error see Introd.

[9] Sherwood Forest, in early times extending over a fifth of the county of Nottingham, more wooded than most forests and the resort of many criminal bands. *Victoria Hist. Nottingham*, i, 365.

[10] Southwest of the town of Nottingham.

pour tenir les couenantz susditz auant qil purroit partir hors de lour compaigne. Et, par cause qe le dit Thomas suit deuers nostre seignour le Roi dauer recouerer, le dit sire William et autres de sa compaignie lui manassont de vie et de membre issint qil ne ose en nul part aler ne estre vewe. Dont le dit Thomas prie a nostre seignour le Roi qe remedie lui soit fait en oeure de charite. Et outre ceo le dit sire William et sa compaignie pristrent le dit Thomas en Walbroke[11] de Londres et lui emprisonerent par cause qil ne dust suer a nostre seignour le Roi ore de temps de parlement dauoir remedie de les duresses auanditz.

[*Endorsed:* —] Partes sunt concordate et Johannes de Arderne[12] manucepit coram consilio domini Regis in camera stellata in palacio Westm' die Martis in Crastino sancti Petri in cathedra, videlicet xxiij die Februarii anno regni domini nostri Regis Anglie xxxv^{to} pro Willelmo de Conyngesby, milite, infra scripto, quod ipse bene et fideliter de cetero se geret erga Regem et populum suum, et quod dampnum vel violenciam aliquam Thome ' person ' de Langar infra scripto aut alicui alteri de populo predicto non faciet nec fieri procurabit, per quod idem Willelmus est dearestatus et dimissus de gracia Regis et finis quem idem Willelmus pro trangressionibus infra scriptis Regi facere tenetur ponitur in respectum ad voluntatem domini Regis secundum bonum gestum ipsius Willelmi, et prefatus Johannes manucepit coram consilio Regis quod predictus Willelmus restituet sibi illas x li. quas dictus rector ei soluerat, unam videlicet medietatem ad festum Pentecostes et aliam medietatem ad festum sancti Michaelis, et quod restituet eidem Rectori litteras suas obligatorias de quibus in billa fit mencio.

MOLYNS *v.* FIENNES[1]

1365 Placita in parliamento apud Westmonasterium in Octabis sancti Hillarii anno regni Regis Edwardi tercii tricesimo nono.[2]

Egidia que fuit uxor Johannis de Molyns[3] porrexit peticionem suam domino Regi in Parliamento suo apud Westmonasterium in Octabis sancti Hillarii anno regni ipsius domini Regis tricesimo octauo[4] tento in hec verba. A nostre seignur le Roi e son conseil monstre Gile qi feust la femme Johan de Molyns Chiualer qe come Robert de Fiennes de France[5] recoueri

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[11] A ward and also a street on the east side of the Walbrook a small tributary of the Thames running through the wall of the city between Bishopsgate and Moorgate. Kingsford-Stow, i, 120.

[12] Ardern, frequently employed as an attorney, receiver, and commissioner. He was commissioner of the peace in Bedfordshire in 1355 and in Buckinghamshire 1361–69, knight of the shire for Buckinghamshire in 1362, 1366, and 1368, and sheriff of Bedfordshire and Buckinghamshire in 1374.

[1] *Parliamentary and Council Proceedings* (Chancery), file 8, no. 7.

[2] 20 January, 1366, but "nono," as will presently be seen, is an inaccuracy for "octavo." Parliament met on 20 January, 1365; but the 39 Ed. III began on 25 January of the same year, after which date this record was doubtless entered. The petition was presum-

because the said Thomas sues before our lord the king for recovery, the said Sir William and others of his company threaten him in life and limb so that he dares not go or be seen anywhere. Wherefore the said Thomas prays our lord the king that remedy may be afforded him, in the way of charity. Moreover the said Sir William and his company seized the said Thomas in Walbrook[11] in London and imprisoned him lest he should sue our lord the king now in time of parliament for remedy for the aforesaid duresses.

[*Endorsed:* —] The parties are agreed and John Arderne[12] has given security before the council of the lord the king in the star chamber in the palace at Westminster on Wednesday the day after (the feast of) St. Peter in Cathedra, that is, the 23d day of February in the 35th year of the reign of our lord the king of England, for William Conyngsby, knight, above mentioned, that he would henceforth conduct himself well and faithfully towards the king and his people, and that he would neither commit nor procure to be committed any damage or violence against the above mentioned Thomas parson of Langar or any other of the aforesaid people, wherefore the said William is released and dismissed by the king's grace, while the fine which the said William is bound to pay the king for the transgressions previously described is respited at the pleasure of the lord the king according to the good conduct of the said William; and the aforesaid John gave security before the king's council that the aforesaid William would restore to him the £10 which the said rector had paid him, that is, one half at the feast of Pentecost and the other half at Michaelmas, and that he would restore to the same rector the letters of obligation of which mention is made in the bill.

MOLYNS *v.* FIENNES[1] [1365]

1365 Pleas in Parliament at Westminster in the Octave of St. Hillary in the thirty-ninth year of the reign of King Edward the Third.[2]

Gill, late the wife of John de Molyns[3] brought her petition to the lord the king in his parliament at Westminster holden in the Octave of Saint Hillary in the thirty-eighth year of the same lord the king[4] in these words. "To our lord the king and his council sheweth Gill late the wife of John de Molyns knight that as Robert de Fiennes of France[5] recovered of late the

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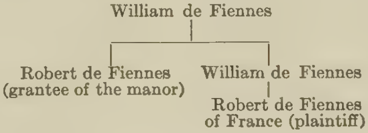
ably presented in the 38th year and heard in the 39th.

[3] Son of Vincent de Molyns, Moleyns, or Molines. He was a famous soldier and political personage under Edward III, and in right of his wife, Gill, lord of the manor of Stoke Poges, Bucks. He is believed to have died in Cambridge Castle in 1362. His life will be found related at length in the *Dict. Nat. Biog.*

[4] 20 Jan. 1365.

[5] Lipscomb, in his account of the family of Fiennes (*Buckingham*, ii, 470) remarks on the difficulty of reconciling the materials for its early history, a complaint illustrated by this document. His pedigree differs from that here given.



nadgairs le manoir de Wendouere deuers la dite Gile par juggement rendu sur brief de Scire facias [6] en la chancellerie nostre seignur le Roi e deins le proces record e rendre du dit juggement diuerses errours auiendrent. Plese a nostre dit seignur le Roi e son conseil de faire venir les ditz record e proces en parlement e auxint la dite Gile e son conseil dassigner les errours susditz qe lei e reson lui ent soient faites. Qua peticione in parliamento audita dictum fuit per Magnatos et alios de consilio Regis in dicto parliamento existentes Episcopo Eliensi Cancellario [7] Regis quod venire faciat recordum et processum unde in dicta peticione fit mencio hic in parliamento predicto, qui eadem recordum et processum ibidem deferri fecit quorum tenor sequitur in hec verba. Dominus Rex mandavit breve suum in hec verba. Edwardus dei gracia Rex Anglie Dominus Hibernie et Aquitanie vicecomiti Buk' salutem. Cum in tractatu pacis inter nos et Johannem nuper Regem Francie facte et per nos jurate [8] inter cetera contineatur quod cum omnia terre tenementa et possessiones alienigenarum de potestate Francie in manum nostram occasione guerre Francie nuper capta prefatis alienigenis restituantur: [9] et jam ex parte Roberti de Fiennes de Francia nobis est supplicatum ut cum Robertus filius Willelmi de Fiennes defunctus auunculus suus seisitus fuisset in dominico suo ut de feodo de manerio de Wendouere cum pertinenciis in comitatu predicto die quo manerium illud occasione guerre predicte seisitum fuit in manum nostram; velimus manerium illud cum pertinenciis eidem Roberto de Fiennes ut consanguineo et heredi predicti Roberti filii Willelmi juxta formam et effectum pacis predicte liberari jubere: nos volentes eidem Roberto de Fiennes plenam et celerem [10] justiciam fieri in hac parte juxta formam pacis predicte et prout ad hoc vinculo juramenti tenemur tibi precipimus quod scire facias Egidie que fuit uxor Johannis de Molyns que dictum manerium tenet ut dicitur quod sit in Cancellaria nostra in Octabis sancti Michaelis proxime futuris [11] ubicunque tunc fuerit [12] ad ostendendum si quid pro se habeat vel dicere sciat quare manerium predictum cum pertinenciis in manum nostram resumi et prefato Roberto de Fiennes ut consanguineo [13] et propinquiori heredi ejus-

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[6] "A writ judicial, most commonly to call a man to shew cause to the court whence it issues why execution of a judgment passed should not be made out. The writ is not granted until a year and a day be elapsed after a judgment given." J. Cowel, *Interpreter*, ed. 1701, sub "Scire."

[7] Simon Langham, bishop of Ely, 1362–66; chancellor, 1363–66, afterwards archbishop of Canterbury.

[8] Treaty of Brétigny, 8 May, 1360, confirmed by King Edward, 24 Oct. 1360. T. Rymer, *Fœdera* (Ed. 1825), III, i, pp. 490, 518.

[9] This refers to § 26 of the original treaty. "Item, concordatum est quod terrae bannitorum et adhaerentium, unius partis et alterius, et etiam ecclesiarum, unius regni et alterius, et quod omnes illi qui sunt exhaereditati aut detrusi a terris suis vel haereditatibus . . . aut aliter gravati qualitercumque, causa istius guerrae, restituantur integre in eisdem jure et possessione quae habuerunt ante guerram inceptam: et quod omnimoda forisfacturae, delicta et misprisiones facta per eos, vel per eorum aliquem, medio tempore, sint ex toto remissa; et quod ista fiant citius quo poterit bono modo, et ad ultimum, infra unum annum proximum post Rex recedet de Calesio." *Fœdera*, l. s. c.

manor of Wendovere against the said Gill by judgment delivered on a writ of scire facias [6] in the chancery of our lord the king and in the process record and delivery of the said judgment there were divers errors, may it please our said lord the king and his council to cause the said record and process to be brought into parliament and also the said Gill and her counsel to assign the errors aforesaid that law and reason may be done her therein." Which petition having been heard in parliament, it was said by the magnates and others of the king's council being in the said parliament to the Bishop of Ely the king's chancellor [7] that he should bring the record and the process whereof mention is made in the said petition here into the parliament aforesaid. The chancellor caused the same record and process to be brought down there, the tenour of which follows in these words. "The lord the king has commanded his writ (to issue) in these words. Edward by the grace of God King of England, Lord of Ireland and of Aquitaine to the sheriff of Bucks Greeting. Whereas in the treaty of the peace made between us and John late king of France and sworn to by us [8] it is among other things contained that all lands tenements and possessions of aliens born of the realm of France lately taken into our hand by occasion of the French war should be restored to the aforesaid aliens-born,[9] and now a petition has been made to us on behalf of Robert de Fiennes of France setting forth that whereas Robert, his deceased uncle, son of William de Fiennes, was seized in his demesne as of fee of the manor of Wendovere with appurtenances in the county aforesaid on the day on which that manor by occasion of the war aforesaid was seized into our hand, We will and command that the manor with its appurtenances be delivered to the same Robert de Fiennes as cousin and heir of the aforesaid Robert the son of William according to the form and effect of the peace aforesaid. We willing that full and prompt[10] justice be done in this behalf to the same Robert de Fiennes according to the form of the peace aforesaid and as we are tied by bond of oath thereto charge you that you notify Gill late wife of John de Molyns who holds the said manor, as it is said, that she be in our chancery in the Octave of St. Michael next coming [11] wheresoever it shall then be [12] to shew if she has or can say why the manor aforesaid together with its appurtenances ought not to be resumed into our hand and be released to the aforementioned Robert de Fiennes ~~as~~ cousin [13] and nearer heir of the same Robert son of William

In chancery unsuccessfully Gill contests Robert's right on the basis of certain deeds [illegible]

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[10] See last note. Edward III left France early in November, 1360, after the ratification of the Treaty. The execution of this provision was therefore more than three years overdue.

[11] 6 October, 1365.

[12] That part of the curia regis which eventually became the judicial body known as "The King in Council" retained the formula "ubicumque." See F. W. Maitland, *Select Pleas of the Crown* (Selden Society), 1888, p. xiii. I. S. Leadam, *Select cases in the Star Chamber* (Selden Society, 1903), p. xvi.

[13] A translation of the English "cousin," which "the word seems to have been often taken to represent. . . . It ('cousin') was very frequently applied to a nephew or niece" (*Oxford Engl. Dict.*). Robert de Fiennes of France was, in fact, nephew of Robert de Fiennes as heir of whom he was claiming.

dem Roberti filii Willielmi juxta formam pacis predicte liberari non debeat et ad faciendum ulterius et recipiendum quod Curia nostra considerauerit in hac parte. Et habeas ibi nomina illorum per quos ei scire feceris et hoc breve. Teste me ipso apud yeshampsted [14] primo die Septembris anno regni nostri tricesimo octauo [15] — per literam de secreto sigillo.[16] Ad quem diem tam predicta Egidia per premonicionem [17] ei per vicecomitem predictum juxta formam breuis predicti factam et in Cancellariam Regis retornatam per Thomam de Middelton [18] attornatum suum quam predictus Robertus de Fiennes de Francia per Michaelem Skillyng [19] attornatum suum veniunt et quesitum est a prefato Roberto de Fiennes de Francia qualiter ipse est consanguineus et heres predicti Roberti filii Willelmi qui dicit quod ipse est filius Willelmi de Fiennes fratris predicti Roberti filii Willelmi et sic est consanguineus et heres predicti Roberti de Fiennes et petit executionem juxta formam brevis predicti. Et predicta Egidia dicit quod quidam finis quondam leuauit[20] videlicet in quindena sancti Johannis Baptiste anno regni Regis Edwardi tercii a conquestu quartodecimo [21] inter Johannem de Molyns Chiualer et prefatam Egidiam uxorem ejus querentes et Robertum de la Haye personam ecclesie de Dachet [22] deforciantem de eodem manerio de Wendouere per quem quidem finem predictus Johannes recognouit predictum manerium esse jus ipsius Roberti ut illud quod idem Robertus habuit de dono predicti Johannis et pro hac recognicione fine et concordia idem Robertus concessit predictis Johanni et Egidie predictum manerium cum pertinenciis et illud eis reddidit in eadem Curia habendum et tenendum eisdem Johanni et Egidie ad totam vitam ipsorum Johannis et Egidie et post decessum ipsorum Johannis et Egidie predictum manerium cum pertinenciis integre remaneret Johanni filio eorundem Johannis et Egidie et heredibus de corpore suo procreatis. Et si contingat quod idem Johannes filius predictorum Johannis et Egidie obierit sine herede de corpore suo procreato tunc predictum manerium remaneret Willelmo fratri ejusdem Johannis filii predictorum Johannis et Egidie et heredibus de corpore suo exeuntibus. Et si dictus Willelmus obierit sine herede de corpore suo procreato tunc predictum manerium rectis heredibus predicti Johannis remaneret.[23] Et profert hic partem finis qui hoc testatur. Et dicit quod predictus Johannes de Molyns mortuus

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[14] I. e. Easthampstead in Berkshire, three miles southeast of Wokingham. It was a royal hunting-box, to which the kings resorted in the summer. "A sandy and barren heath of great extent even within living memory." W. Lyon, *Chronicles of Finchampstead* (1895), p. 4. D. & S. Lysons, *Magna Britannia* (1806), i, 285.

[15] 1 September, 1364.

[16] "A summons for appearance under Privy Seal, whether it took the more mandatory form of a writ (breve) or that of a letter (litere), at first expressed no penalty." I. S. Leadam, *Select Cases in the Star Chamber* (Selden Society, 1903), p. xxi. For the earliest subpoena, issuing upon a bill addressed to the king and council, see Sir F. Palgrave, *The King's Council* (1834), p. 131.

[17] Writs of premunire were issued on suggestions filed before the council. An example of one, including the clause of subpoena, is to be seen on p. 43.

[18] The name of Middleton occurs in the list of counsel shewn by the Year Books to have practised in the courts in the reign of

according to the form of the peace aforesaid, and further to do and receive what our court shall adjudge in this behalf. And you are to have there the names of those by whom you notify her and this writ. Witness myself at Easthampstead [14] on the first day of September in the thirty-eighth year of our reign.[15] By letter of privy seal." [16]

On that day both the aforesaid Gill, on notice [17] to her given by the sheriff aforesaid according to the form of the writ aforesaid made and returned into the king's chancery, comes into court by Thomas of Middelton[18] her attorney as also does the aforesaid Robert de Fiennes of France by Michael Skillyng [19] his attorney. The aforesaid Robert de Fiennes of France is asked how he is cousin and heir of the aforesaid Robert son of William. He says that he is son of William de Fiennes brother of the aforesaid Robert the son of William and so is cousin and heir of the aforesaid Robert de Fiennes and asks execution according to the form of the writ aforesaid. And the aforesaid Gill says that a certain fine was formerly levied,[20] to wit, in the quindene of St. John Baptist in the fourteenth year of the reign of King Edward the third from the Conquest [21] between John de Molyns knight and the aforesaid Gill his wife and Robert de la Haye, parson of the church of Dachet,[22] deforciant, touching the same manor of Wendovere. By this fine the aforesaid John acknowledged the aforesaid manor to be the right of him, Robert, as being that which the same Robert had as the gift of the aforesaid John, and for this acknowledgement, fine and concord the same Robert granted to the aforesaid John and Gill the aforesaid manor with appurtenances and delivered it to them in the same court to have and to hold to the same John and Gill for the whole of their lives and that after their decease the aforesaid manor with appurtenances should in its entirety pass in remainder to John son of the same John and Gill and to the heirs procreated of his body. And if it happen that the same John son of the aforesaid John and Gill shall die without an heir procreated of his body, then the aforesaid manor should pass in remainder to William brother of the same John son of the aforesaid John and Gill and to the issue of his body. And if the said William shall die without an heir procreated of his body, then the aforesaid manor should pass in remainder to the right heir of the aforesaid John.[23] And he produces here the part of the fine which is evidence of this. And he says that the aforesaid John de Molyns died and

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Edward III. E. Foss, *Lives of the Judges* (1851), iii, 374.

[19] The name of Skillyng or Skylling similarly appears. Foss, ibid.

[20] The common phrase on the rolls of Edward I seems to be "et finis levavit [*not* levavit se] inter eos." Pollock & Maitland, *Hist. of Eng. Law* (1895), ii, 97, n. 5.

[21] 8 July, 1340.

[22] Now Datchet, South Bucks, a mile East of Windsor.

[23] "In this last species of fine, the cognizee, after the right is acknowledged to be in him, grants back again, or renders to the cognizor . . . some other estate in the premises." Sir W. Blackstone, *Commentaries* (2d ed. 1767), ii, 353. This feoffment of a manor held in chief, being without license first obtained, was liable to penalty which the king by Letters Patent of 20 July, 1340, remitted. *Pat. Rolls*, 14 Ed. III, pt. iii, m. 54, p. 9.

est et Johannes filius predictorum Johannis et Egidie mortuus est sine herede de corpore suo procreato et sic tenet ipsa Egidia predictum manerium ad terminum vite sue post cujus mortem predictum manerium Willelmo fratri predicti Johannis filii eorundem Johannis de Molyns et Egidie remanere debet, quiquidem Willelmus est filius et heres predicti Johannis de Molyns, et sic tam feodum simplex quam talliatum in persona predicti Willelmi existit sine quo ipsa Egidia non potest de jure respondere et petit auxilium de predicto Willelmo [24] et quod premuniatur. Et Robertus de Fiennes de Francia per Michaelem Skyllyng attornatum suum dicit quod Rex juxta tractatum pacis predicte absque alio processu potest et tenetur prefato Roberto de Fiennes dictum manerium restituere. Set ut sciri posset si prefata Egidia aliquod jus habuisset ad excludendum prefatum Robertum de Fiennes ab actione de dicto manerio, idem Rex de curialitate sua concessit breve predictum versus prefatam Egidiam de habendo finalem responsionem super declaracionem juris sui predicti et non ad alium effectum emanauit breve illud et sic in execucione istius breuis fundati super pacem predictam quam Rex vinculo juramenti tenetur obseruare, et infra unum annum a tempore reformacionis ejusdem pacis complere, non requiritur talis processus de auxilio petendo aut aliis dilatoriis sicut in aliis breuibus ad communem legem.[25] Et similiter quoddam aliud breue de scire facias prosecutum est versus prefatum Willelmum de Molyns de manerio predicto qui placitando allegauit se non esse tenentem manerii predicti nec aliquid habere in manerio predicto nisi in le remanere post mortem dicte Egidie juxta formam finis predicti nec ad breue illud respondere teneri. Et quesitum est ab eodem Willelmo si se pro saluacione juris sui in hac parte prefate Egidie jungere voluit, qui hoc facere omnino recusauit. Et sic dicit idem Robertus de Fiennes quod auxilium petitum non est in isto casu concedendum, per quod ex causis premissis et aliis dictum est eidem Egidie quod respondeat sine auxilio ejusdem Willelmi de Molyns si sibi viderit expedire. Et predicta Egidia protestando [26] quod non cognoscit quod predictus Robertus de Fiennes de Francia sit consanguineus vel de sanguine Roberti filii Willelmi de Fiennes nec quod predictum manerium seisitum fuit in manum domini Regis occasione guerre dicit quod predictus Robertus de Fiennes qui nunc sequitur natus fuit tempore Edwardi patris Regis nunc extra ligianciam Anglie et non infra et hoc pretendit verificare et petit judicium si idem Robertus de Fiennes de Francia ut heres alicujus execucionem[27] habere debeat, maxime cum hoc contra legem Anglie hactenus usitatam et

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[24] This is the "aid-prayer." "In litigation the tenant for life represents the land. Suppose, for example, that A is holding the land as tenant for life by some title under which on his death the land will revert or remain to B in fee. Now if X sets up an adverse title, it is A, not B, whom he must attack. When A is sued, it will be his duty to 'pray aid' of B, to get B made a party to the action, and B in his own interest will take upon himself the defense of his rights." P. and M. *Hist. Eng. Law*, ii, 10. Cf. *The Eyre of Kent*, i, 92 (Seld. Soc. 1910). "Si vidua dotata de libertate ut de Warenna vel hujusmodi si inde calumpnietur, petet auxilium de herede &c."

John the son of the aforesaid John and Gill died without an heir procreated of his body and so Gill herself holds the aforesaid manor for the term of her life, after whose death the aforesaid manor ought to pass in remainder to William brother of the aforesaid John son of the same John de Molyns and Gill, which William is indeed son and heir of the aforesaid John de Molyns, and so as well the fee simple as the fee tail is in the person of the aforesaid William apart from whom Gill herself can not answer of right and prays aid of the aforesaid William [24] and that a premunire be issued. And Robert de Fiennes of France by Michael Skyllyng his attorney says that the king according to the treaty of peace aforesaid without other process is able and is bound to restore the said manor to Robert de Fiennes. But that it might be known if the aforementioned Gill had any right to bar the aforementioned Robert de Fiennes from action touching the said manor, the same king out of his courtesy granted the writ aforesaid against the aforementioned Gill for having a final answer upon the declaration of his right aforesaid and issued that writ for no other purpose and so in execution of this writ founded upon the peace aforesaid which the king by the bond of an oath is bound to observe and within one year from the time of the restoration of the same peace to fulfil, there is no need for such process of praying aid or other dilatory pleas as in other writs at the common law.[25] And likewise a certain other writ of scire facias was sued out against the aforementioned William de Molyns touching the manor aforesaid, who in his plea alleged that he was not himself tenant of the manor aforesaid and that he had nothing in the manor aforesaid save in remainder after the death of the said Gill according to the form of the fine aforesaid and that he is not bound to make answer to that writ. And the same William was asked whether to save his right in this behalf he was willing to plead jointly with the aforementioned Gill, which he utterly refused to do. And so the same Robert de Fiennes says that the aid prayed is in this case not to be granted, wherefore from the causes premised and from others the same Gill was told to answer without aid of the same William de Molyns if she should think fit. And the aforesaid Gill protesting [26] that she does not know that the aforesaid Robert de Fiennes of France is a cousin or of the blood of Robert the son of William de Fiennes, nor that the aforesaid manor was seized into the hand of the lord the king by occasion of the war, says that the aforesaid Robert de Fiennes who now sues was born in the time of Edward father of the king that now is out of the liegeance of England and not within it and this he offers to prove and asks judgment whether the same Robert de Fiennes of France ought to have execution [27] as any one's heir, especially since this would manifestly be contrary to the law of England hitherto used

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[25] A reason why this was a case for the council.

[26] "Protestation is a defence of safeguard to the party which maketh it from being concluded by the act he is about to do, that issue can not be joined by it." Cowel, *Interpreter*, s. v.

[27] "An execution final is that which . . . extendeth his (the defendant's) lands, and delivereth them to the plaintiff." Ibid.

approbatam foret manifeste. Et predictus Robertus de Fiennes dicit quod omnes de utroque regnorum Anglie et Francie qui occasione guerrarum predictarum exheredati fuerunt de terris et hereditatibus suis in eisdem juribus et possessionibus que ante incepcionem guerrarum predictarum[28] habuerunt per pacem predictam integre restitui debent, et sic restitucio illa ad alienigenas utruisque regni se extendit, que quidem pax per Regem Prelatos et Magnates ac communitatem regni Anglie in pleno parliamento confirmata et jurata fuit, et dicit quod manerium predictum occasione guerrarum predictarum et non ex alia causa ad manum Regis deuenit et quod predictus Robertus de Fiennes est heres prefati Roberti filii Willelmi per cujus Roberti de Fiennes adhesionem parti aduerse domini Regis dictum manerium captum fuit in manum Regis, et ex quo id quod per pacem predictam per Reges utriusque regni pro communi utilitate regnorum predictorum et rei publice concordatum est, non per legem communem Anglie, set secundum vim et intencionem pacis predicte deduci debet et terminari, maxime cum predicta Egidia nullum titulum juris in persona sua ad excludendum predictum Robertum de Fiennes de Francia ab accione sua ostendit, et in voluntate domini Regis existit admittendi de gracia sua alienigenas ad hereditates suas habendas in regno Anglie sicut temporibus retroactis fieri consueuit, et petit quod dictum manerium in manum Regis capiatur, et prefato Roberto de Fiennes de Francia ut consanguineo et heredi predicti Roberti filii Willelmi juxta formam pacis predicte restituatur. Et quia predicto negocio coram domino Rege et Magnatibus et aliis de consilio suo deducto et examinato per ipsum Regem recordatum est predictum Robertum de Fiennes de Francia esse consanguineum et heredem predicti Roberti filii Willelmi per cujus forsifacturam Manerium predictum occasione guerrarum predictarum et non alia de causa ad manus ipsius Regis deuenit et per dictum Regem et omnes Magnates et alios de consilio ipsius Regis sibi assistentes concordatum fuit quod tractatus pacis predictus in omnibus suis articulis obseruetur et teneatur et execucioni demandetur allegacionibus predictis non obstantibus, quod licet fiat in hoc casu speciali pro reformacione pacis observande juxta vim effectum et intencionem ejusdem pacis juri tamen communi in aliis casibus nullatenus derogatur, per quod consideratum est quod Manerium predictum in manum Regis seisiatur et prefato Roberto de Fiennes de Francia ut consanguineo et heredi predicti Roberti filii Willelmi juxta formam pacis predicte restituatur, et preceptum est vicecomiti Buk' quod Manerium predictum cum pertinenciis in manum Regis sine dilacione seisiri et illud custodiri faciat quousqe aliud a Rege inde habuerit in mandatis. Quibus recordo et processu cum peticione predicta visis et examinatis ac inspecto irrotulamento carte per quam dictus

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[28] Active hostilities began in September, 1339, with the invasion of the Cambrésis by Edward III. *Political History of England* (T. F. Tout), vol. iii, p. 339.

and approved. And the aforesaid Robert de Fiennes says that all persons of either of the realms of England and France who have been by occasion of the wars aforesaid disinherited of their lands and hereditaments ought by the peace aforesaid to be wholly restored in the same rights and possessions as they had before the beginning of the wars aforesaid,[28] and accordingly that restitution extends to the aliens-born of either kingdom, the which peace was confirmed and sworn by the king, prelates and magnates and commonalty of the kingdom of England in full parliament, and he says that the manor aforesaid by occasion of the wars aforesaid and arising out of no other cause fell into the hand of the king and that the aforesaid Robert de Fiennes is heir of the aforementioned Robert son of William and that by the adhesion of this Robert de Fiennes to the party opposed to the lord the king the said manor was taken into the king's hand. And since because by the peace aforesaid it has been so agreed by the kings of either realm for the common advantage of the realms aforesaid and of the public weal, the claim ought to be tried and determined, not by the common law of England, but according to the force and intent of the peace aforesaid, especially since the aforesaid Gill shews no legal title in her own person to exclude the aforesaid Robert de Fiennes of France from his action and it is in the will of the lord the king to admit of his favour aliens-born to hold their hereditaments in the realm of England as in times past has been customary to be done, and he prays that the said manor be taken into the king's hand and restored to the aforementioned Robert de Fiennes of France as cousin and heir of the aforesaid Robert son of William according to the form of the peace aforesaid. And because the aforesaid matter having been tried before the lord the king and the magnates and others of his council and examined by the king himself it was put on record that the aforesaid Robert de Fiennes of France is cousin and heir of the aforesaid Robert son of William, through whose forfeiture the manor aforesaid by occasion of the wars aforesaid and not from any other cause fell into the hands of the king himself, and by the said king and all the magnates and others of the council of the king in person sitting as his assessors it was agreed that the treaty of peace aforesaid should be observed and holden in all its articles and committed to execution, the allegations aforesaid notwithstanding; that though it be done in this special case for restoration of the peace, to be observed according to the force, effect and intention of the same peace, yet there is no derogation of the common law in other cases. Whereby it was adjudged that the manor aforesaid be seized into the king's hand and restored to the aforementioned Robert de Fiennes of France as cousin and heir of the aforesaid Robert son of William according to the form of the peace aforesaid, and a precept was issued to the sheriff of Bucks for the seizure of the manor with its appurtenances forthwith into the king's hands and for its custody till he should have another command from the king in that behalf. This record and process together with the petition aforesaid having been seen and examined, and

Rex Manerium predictum prefato Johanni de Molyns dedit et concessit in rotulis Cancellarie ipsius Regis anno regni sui quartodecimo irrotulate[29] in qua continetur quod dictus Rex Manerium predictum cum pertinenciis quod ad manus ipsius Regis per forisfacturam predicti Roberti filii Willelmi pro eo quod idem Robertus inimicis Regis de Francia de guerra contra ipsum Regem adhesit deuenit, dedit et concessit prefato Johanni de Molyns sub forma in eadem carta contenta, et ex quo clare liquet per eandem cartam quod dictum Manerium cum pertinenciis ad manus Regis causa guerre predicte ut predicitur deuenit et juxta tractatum pacis predicte in eodem parliamento ostensum, terre bannitorum et adherencium uni parti et alteri de utroque regno, et omnes illi qui causa guerre [predicte ex] heredati vel de terris et hereditatibus suis amoti fuerunt in eisdem jure et possessione que ante incepcionem guerre predicte habuerunt integraliter sunt restituendi et sic causa forisfacture racione guerre predicte in utroque regno est omnino per pacem illam extincta et adnullata, dictaque Egidia per placitum suum non allegauit nec affirmauit jus dicto domino Regi nec eidem Egidie in Manerio predicto per aliam viam ad excludendum prefatum Robertum de Fiennes de accione sua ad dictum Manerium per pacem predictam sic attributa accrevisse, videtur Magnatibus et aliis peritis[30] de parliamento predicto quod nec per cartam predictam de dicto manerio prefato Johanni de Molyns per dominum Regem sic racione forisfacture predicte factam, nec per aliqua alia per predictam Egidiam superius allegata possit aut debeat execucio de hiis que sic in pace predicta continentur aliqualiter impediri, per quod non habeat respectum ad errores pretensos nec ad alia per dictam Egidiam superius allegata per totum parliamentum predictum consideratum est quod dictum Manerium cum pertinenciis in manum Regis capiatur.[31]

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[29] On 12 December, 1339, Edward III, being then at Antwerp, granted to John de Molyns "in recompense of the £100 yearly at the Exchequer for the support of his estate of banneret lately granted to him by the king" the manor of Wendovre and other manors "and the farm which Robert de Fienles (*sic*) lately held in the town of Aylesbury, with the fees of Chokes late of John de Fienles," &c. (*Pat. Rolls*, 12-14, Ed. III, m. 5, p. 402.) A fuller grant, dated Westminster, 5 March, 14

the enrolment of the charter by which the said king gave and granted the manor aforesaid to the aforementioned John de Molyns having been inspected in the rolls of the chancery of the same king enrolled [29] in the fourteenth year of his reign, in which charter it is contained that the said king gave and granted to the aforementioned John de Molyns under the form in the same charter contained the manor aforesaid with appurtenances which fell into the hands of the same king by the forfeiture of the aforesaid Robert son of William for that the same Robert adhered to the king's enemies of France at war with the same king. And since it is clearly evident by the same charter that the said manor with the appurtenances fell to the hands of the king by the aforesaid reason of the war as is aforesaid and according to the treaty of the peace aforesaid exhibited in the same parliament, the lands of those banished and of the adherents of the one party and the other of either realm and all those who because of the war aforesaid were removed from their right of hereditary succession or from their lands and hereditaments were to be restored in full in the same right and possession that they had before the beginning of the war aforesaid and so the cause of forfeiture by reason of the war aforesaid has been wholly extinguished and annulled by that peace in either realm. Moreover, the said Gill by her plea has neither alleged nor affirmed that the right thus assigned accrued to the said lord the king nor to the same Gill in the Manor aforesaid by any other way so as to exclude the aforementioned Robert de Fiennes from his action for the said manor by reason of the peace aforesaid. It appears (therefore) to the magnates and other skilled members [30] of the parliament aforesaid that neither by the charter aforesaid touching the said manor made to John de Molyns aforementioned by the lord the king by reason of the forfeiture aforesaid nor by any other of the above allegations by the aforesaid Gill can or ought the execution of the terms contained in the said peace in any way to be impeded, so that regard should not be paid to the errors set out, nor to other allegations above made by the said Gill. Judgment was given by the whole parliament that the said manor with appurtenances be taken into the king's hand.[31]

Ed. III (1340) was probably that referred to here, for it expressly recites that the manor of Wendovre, county Buckingham, with other property, "escheats because John and Robert de Fienles adhered to the king's enemies, the French," ibid. p. 435; cf. 10 and 25 April, 1340, ibid. 468, 469 and 21 June, 1340, ibid. p. 549.

[30] As to these see *Select cases in the Star Chamber* (Seld. Soc. 1903), pp. xxxv–xlviii.

[31] As to the subsequent history of the manor, see p. lxxxiii, supra.

UGHTRED AND OTHERS *v.* MUSGRAVE [1]

1366 Peticiones et processus facti contra Thomam de Musgraue [2] vicecomitem Eboracensem per Thomam de Ughtred [3] et alios in quindena Pasche anno regni Regis Edwardi tercii quadragesimo.[4]

Memorandum quod dominus Rex misit coram consilio suo per Johannem de la Lee [5] Senescallum hospicii sui diuersas billas sibi liberatas que sequntur etc. ut consilium inde fieri faciat quod iustum fuerit etc.

A

[Ce]s sont les greuaunces et malices faitz a Thomas Ughtred Chiualer par monsieur Thomas Musegraue viscounte Deuerwic lesqueux greuances il prie au Roi qils soient redressez.

Adeprimes le dit vicounte emprisona le [dit] Thomas Ughtred sanz proces de la ley ou enditement ou dascune manere dappelle [6] et sanz garauntz encontre la ley, et le dit viscounte prist sur lui xiiij enquestes [7] et ne trouast nulle cause sur lui pour lui emprisoner, et les Justices nostre seignour le Roi du pees et del lay cestassauer le sire de Percy [8] monsieur Rauf de Neville [9]

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[1] *Parliamentary and Council Proceedings* (Chancery), file 8, no. 8, in 4 membranes, A, B, C, D.

[2] Thomas de Musgrave was pricked sheriff of the county of York on 30 September, 1359. On 21 November, 1360, Marmaduke Conestable displaced him; but on 20 November, 1362, Musgrave was appointed sheriff once more, and remained in office till 13 May, 1366, when Conestable again succeeded him. After this date, his name does not recur. His final displacement was, therefore, not improbably due to these petitions, to which the judgment of the council, though fragmentary, appears to have been favourable. The quindene of Easter, 40 Edward III, was 19 April, 1366, to which date these petitions are assigned. If Musgrave's displacement were their consequence, the business of the council was expeditiously transacted.

Thomas Musgrave, sheriff of York, is identified with Sir Thomas Musgrave, Baron Musgrave, by the author of the life of the latter in the *Dict. Nat. Biog.* This document, however, furnishes ground for the conclusion that the sheriff was son of his more distinguished father of the same names. For the Thomas Musgrave, who was "in 1368 and subsequent years escheator for Yorkshire, Northumberland, Cumberland, and Westmorland," was, as the Patent Rolls shew, not a knight, but probably the sheriff; whereas Sir Thomas Musgrave was a soldier, constantly employed in the defence of the border against the Scots. In the same membrane (6) of the Patent Rolls of 44 Ed. III, pt. I, occurs the name of "Thomas de Musgrave, escheator in the county of York" (15 May) and (20 May) "Thomas de Musgrave, chivaler"; apparently indicating different persons. From this family are descended the Musgraves of Edenhall, Cumberland.

[3] The name of Ughtred, of Scarborough and Catton, &c., County York, was one of great distinction at this time. The father of this petitioner, Sir Thomas Ughtred, K. G., was summoned to parliament as a baron in 1343 and 1364, and had died in 1365. His son and heir, already a knight, became a distinguished commander both in Scotland, where he was governor of Lochmaben Castle, and in France, and died in November, 1401, but was never summoned to parliament. Sir T. C. Banks, *Baronia Anglica Concentrata* (1844), i, 440. G. E. Cokayne, *Complete Peerage* (1898), viii, 2. *Testamenta Eboracensia* (Surtees Soc.), i, 241 (1836).

[4] Fourteen days after Easter Sunday, which fell on 5 April, 1366; i. e., 19th of April.

[5] John de la Lee, or John atte Lee, was

UGHTRED AND OTHERS *v.* MUSGRAVE [1]

1366 Petitions and processes made against Thomas Musgrave,[2] sheriff of York, by Thomas Ughtred [3] and others on the Quindene of Easter in the fortieth year of the reign of King Edward the Third.[4]

Be it remembered that the lord the king has sent before his council by John de la Lee,[5] steward of his household, divers bills delivered to him, as follow &c. that the council may cause to be done in that behalf that which shall be just &c.

A

[These] are the injuries and wrongs done to Thomas Ughtred, knight, by master Thomas Musgrave sheriff of York, the which injuries he prays the king may be redressed.

First, the said sheriff imprisoned the [said] Thomas Ughtred without process of law or indictment, or of any manner of appeal[6] and without warrant contrary to law, and the said sheriff held fourteen inquests against him,[7] and found no cause against him for imprisoning him, and the justices of our lord the king [both] of the peace and of the law, to wit, the lord Percy,[8]

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son, and heir of Geoffrey de la Lee, of Albury, Herts, sheriff of Essex and Herts in 1311. John de la Lee sat for the county, as John atte Lee, in the parliament of 1355 and died in 1370. He is not entered on the roll as a knight. J. E. Cussans, *Hist. of Hertfordshire* (1873–77), *Hundred of Edwinstree*, p. 148.

[6] "Accusation or Appeal is a lawful Declaration of another man's Crime (which by Bracton must be Felony at the least) before a competent Judge by one that setteth his name to the Declaration, and undertakes to prove it upon the penalty that may ensue of the contrary." J. Cowell, *Interpreter* (ed. 1701), s. v. Appeal.

[7] See Introduction, p. lxxxv, supra.

[8] Henry of Percy, Percehay, Pershay &c. was placed on the commission of the peace for the West Riding of Yorkshire on 21 March, 1361, together with Ralph Nevill, Thomas Mosegrave, and William Fynchesden, all of whose names figure in these proceedings. (*Cal. Pat. Rolls*, 35 Ed. III, p. 64.) A person of the same names was nominated on the same day to the commission of the peace for Somerset. Henry Percy was also placed on the commission for Northumberland on 20 Nov. 1362 (*Pat. Rolls*, 36 Ed. III, p. 292). He was employed from time to time upon special commissions issued to make inquisition into cases of violence as in Northumberland on 28 Dec. 1363 (ib. p. 453), and 30 Nov. 1364 (ib. p. 530), and on a commission of oyer and terminer in Dorset (2 July, 1364, ib. p. 544), though I have failed to find this commission. As Percy was at the head of it, he was, perhaps, a lawyer, and the same as Henry de Percehay, who became a king's serjeant in 1365, a Baron of the Exchequer in 1375, and a Justice of the Common Pleas in 1377. E. Foss, *Lives of the Judges*, (1854), iv, 66. Foss identifies him with a family who were "the possessors of Lewesham and other manors in Yorkshire." But the style here used, "le Sire de Percy," nine years before the appointment of a judge of the name, presents a difficulty. The draughtsman of the pleadings may, indeed, have awarded it, in forensic use, to the commissioner of oyer and terminer. There was also a Henry de Percy, "late lord of Spofford" (Spofforth, Co. York), who died some time prior to 15 May, 1368 (*Cal. Pat. Rolls*, 42 Ed. III, p. 113). Lastly, there was "the king's kinsman, Henry lord of Percy," ib. p. 172, who died 17 June, 1368. He had fought at Crécy, and Neville's Cross, and was much employed

monsieur Johan de Moubray[10] monsieur William de Fynchesdene[11] et Roger de Fulthorpe[12] pristrent vij enquestes des Chiualers et des seriantz mieuth veillantz en la pays,[13] et ne pourroient rien trouer sur le dit Thomas Ughtred pour lui emprisoner; et la ou le dit Thomas Ughtred auoit brief as Justices auantditz pour aler a sa delieraunce[14] come la ley voet, le dit viscounte la desturba par malice, qil ne pourroit estre deliuerez.

Item le dit viscounte ne voleit deliuerer le dit Thomas Ughtred hors de la Gayole Deuerwic, tanqe le dit Thomas auoit troue mainpernours[15] iiij Chiualers et j esquier les queux sont obligez et fermement liez au dit viscounte et chescun de eux pour le tout en v^c li. pour entrer la corps du dit Thomas Ughtred en la Gayole Deuerwic a ceste Pentecoste proschein auenir[16] ou dedeinz mesme celle temps par garnisement dun mois.

Item le dit viscounte conseilla le dit Thomas pour lui faire enditer mesmes, et lui fesoit entendre sil fust endite qil lui ferroit auoir une enqueste pour lui deliuerer.

Item le dit viscounte prist du dit Thomas Ughtred C s. pour estre bien voillant et eidant a lui en une assise de nouel deseisine[17] qe fust parentre lui

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in maintaining the peace of the Scottish border. He was the third Baron Percy, and married as his first wife a great grand-daughter of Henry III. (G. E. C., *Complete Peerage*, sub "Percy".) The name of his colleague, Ralph Neville, inclines me to identify him as the person here designated.

[9] Although there appears to have been a person of these names who may have been a different individual, I incline to identify this Ralph Neville with the fourth Baron Neville of Roby, whose life is recorded in the *Dictionary of National Biography*. It is a circumstance not altogether without significance in this connexion that Dugdale, *Baronage* i, 292, records that in 1331 Neville "had entered into an undertaking to serve Henry, lord Percy, for life in peace or war, except against the king, with twenty men-at-arms." This lord Percy was the father of the commissioner of this document and died in 1352. The Patent Rolls afford numerous instances of the association of Ralph Neville with, but ranking after, Henry Percy, as upon commissions of the peace for Yorkshire (*Cal. Pat. Rolls*, 20 March, 1361, 64, 292) and Northumberland (ib. pp. 65, 453); commissions of oyer and terminer for Cumberland (ib. p. 148) and Yorkshire (4 May, 1364, pp. 539, 540, 541; cf. *Close Rolls*, 10 June, 1364, p. 57). Ralph Neville died 5 Aug. 1367. He was an active and distinguished soldier on the Scottish border (see *Dict. Nat. Biog.*). The difficulty remains, however, that the style "monsieur" is used. This can scarcely, however, have indicated his third son, Ralph Neville, who was born not earlier than 1343, his eldest brother John being aged twenty-six on the death of his father in 1367, and who would therefore have been only about twenty-three in 1366. The next name, that of a judge, suggests that the first two commissioners were men of high rank.

[10] John Mowbray, whose connexion with the noble family of Mowbray or Moubray Foss was unable to discover, was in practice as an advocate as early as 1343 and in 1354 was a king's serjeant-at-law. At this time he was a justice of common pleas, to which office he had been raised in 1359, and a knight of the Bath. The frequency with which he was employed as a commissioner of oyer and terminer, especially in the county of York, will be apparent at a glance in the Patent Rolls. William Fyncheden and Roger Fulthorp were frequently associated with him in these cases and similar inquiries.

[11] William Fyncheden may be conjectured to have been of a Yorkshire family, a Richard Fyncheden being appointed a commissioner of array for that county in 1359. His name occurs as an advocate in the Year Books from 1350; in 1362 he was made a king's serjeant, and was employed as a justice of assize in 1364. On 29 October, 1365, he was appointed a

master Ralph Neville,[9] master John Mowbray,[10] master William Finchden [11] and Roger Fulthorpe[12] held seven inquests of the knights and more substantial squires[13] in the county, and could not find anything against the said Thomas Ughtred [for which] to imprison him, and whereas the said Thomas Ughtred had a writ to the justices aforesaid to go to his deliverance [14] as the law requires, the said sheriff delayed it of malice, that he might not be able to be delivered.

Also the said sheriff would not deliver the said Thomas Ughtred out of the jail of York until the said Thomas had found as mainpernors [15] four knights and one esquire who are under obligation and straitly bound to the said sheriff, and each of them for the whole in five hundred pounds, to bring the body of the said Thomas Ughtred into the jail of York at this Pentecost next coming [16] or within that same time at one month's notice.

Also the said sheriff counselled the said Thomas to cause himself to be indicted, and gave him to understand that if he were indicted he would cause him to have an inquest to deliver him.

Also the said sheriff took from the said Thomas Ughtred a hundred shillings to be partial and helpful to him in an assise of novel disseisin,[17] that

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justice of the common pleas, and chief justice of the same court on 14 April, 1371. Foss, iii, 432.

[12] If Foss be right in saying (iv, 53) that Roger Fulthorpe, who in 1377 became a justice of the common pleas and afterwards had a chequered career (see *Rot. Parl.* v, 393), "began his career as an advocate about 1366," he must have been another person than this commissioner. The Patent Rolls shew that during some years Roger Fulthorpe or Foulthorpe had been employed on commissions of oyer and terminer, &c., especially in Yorkshire (1361, p. 150; 1362, pp. 206; 207, &c.). He probably belonged to the family of the judge, though he could not have been his father, whose name was Alan. According to Foss, the family sprang from Thirkelby, near Thirsk, Yorkshire, but R. Surtees, *Hist. of Durham* (1823), iii, 126, traces it to Fulthorpe and Tunstall, Co. Durham, and Hipswell, Co. York.

[13] In the *modus procedendi* for the justices itinerant, as given in Bracton (fo. 116) four knights are to be selected from every Hundred and sworn to elect "xii milites vel liberos et legales homines si milites non inveniantur," &c. For the procedure upon these inquests see Pollock & Maitland, *Hist. of Engl. Law*, ii, 640, &c. "Every justice deputed to a particular place was in Eyre, or, as we should say 'on circuit.'" Stephen I, 99.

[14] This perhaps means the commission of oyer and terminer which commissions were sometimes special, when limited to the trial of particular offences. Coke divides the special commissions into five classes, of which the third is a commission in respect "of divers oppressions &c., extortions &c., by the king's ministers." 4th Inst. 162. By the statute of Northampton (2 Ed. III, c. 2, 1328), "Oyers and Terminers shall not be granted but before Justices of the one Bench, or the other, or the Justices Errants, and that for great hurt or horrible Trespasses."

According to Coke (*4 Inst.* 164), "the Justices were so carefull that no innovation should creep in concerning commissions of oier and terminer that certain Justices having their authority by writ, where they ought to have had it by commission, though it were of the forme and words that the legal commission ought to be, John Knivett, chief justice, by the advice of all the judges resolved, that the said writ was contra legem." Knivett did not become Chief Justice till 29 October, 1365, very shortly prior to this case, which perhaps records an example of the practice which he condemned. Foss, iii, 451.

[15] See p. 45, n.

[16] Easter Day being 5 April, this would be Sunday, 24 May, 1366.

[17] A civil action, see P. & M. ii, 47–55. W. S. Holdsworth, *Hist. of Engl. Law*

et monsieur Thomas de Gray tennant son estat dount il fust countre le dit Thomas Ughtred en touz maners de choses touchant mesme lassise encountre sa promesse et encontre la ley de la terre.

Item le dit viscounte prist Robert Walman seruant an dit Thomas Ughtred sanz garaunt et sanz enditement ou sanz suspecion et lui mist en penaunce et lui engyna a poi de mort pour appeller le dit Thomas Ughtred de felonie faucement et de larcyne encontre sa volonte et encountre la ley de la terre lequel Robert demourast en les ditz penaunces et engynes par un noiet et un jour par quei il estoit bienpres la mort pour les penaunces qil auoit, et il ne pourroit rien trouer de malice sur le dit Thomas Ughtred, et detenoit le dit Robert en prisone tanqe il eit fyne au dit viscounte et a ses ministres xv s. iiij d.

B

[Ces] sont les greuaunces et malices faitz a Johan de Hothum Chiualer le fitz [18] par monsieur Thomas Musegraue viscounte Deuerwyk.

Adeprimes le dit viscounte emprisona le dit Johan sanz procees de lay ou enditement ou dascune manere dappelle et sanz garaunt et encontre la ley, et le dit viscount prist sur lui xiiij enquestes et ne trouast nulle cause pour lui emprisoner et les Justices nostre seignour le Roi du pees et de la ley cestassauoir le sire de Percy monsieur Rauf de Neuille monsieur Johan Moubray monsieur William Fynchesdene et Roger de Fulthorpe pristrent vij enquestes de[s] chiualers et des seriantz mieuth vaillantz en la dite Counte et ne pourroient rien trouer sur le dit Johan de Hothum pour lui emprisoner.

Item le dit viscounte ne voleit deliuerer le dit Johan de Hothum hors de la Gayole deuerwyk tanqe le dit Johan Hothum auoit troue mainpernours iiij chiualers et j esquier, les queux sont obligez et ferment liez au dit viscounte et chescun pour le tout en v^c li. pour amesner le corps le dit monsieur Johan de Hothum en la dite emprisone a ceste Pentecoste proschein auenir ou dedeinz mesme celle temps par garnisement dun mois.

Item [19] le dit viscounte conseilla le dit Johan de Hothum Simon de Heserton Chiualer [20] et William Craunsewyk [21] pour lour mesmes faire enditer par lour amistez par voie de trespas et sils fuissent issint enditez il lour ferroit auoir une enqueste pour ent eux deliuerer.

(1903), iii, 5. The writ to the sheriff is in Glanvill, xiii, 3, and orders him to summon a jury of twelve to decide the question whether the defendant has "unjustly and without judgement" disseised the plaintiff. If the jury answered affirmatively the sheriff was to restore the disseised person.

It would appear from Musgrave's answer (p. 58, infra) that Gray was the plaintiff disseised.

[18] See Introd. p. lxxxiv.

[19] This paragraph seems out of place and is repeated in the next document.

[20] I identify this person with Sir Simon de Heselarton, whose name occurs in the Patent Rolls for 1 Feb. 1361 (p. 2), as already a knight in 1356, when he was witness to a deed. He was returned as a knight of the shire for Yorkshire to the Parliaments of 1362, 1363, 1366, and 1372. Members of Parlt., in *Parliamentary Papers* (1878), vol. lxii, pt. 1. He was frequently a commissioner of oyer and terminer in Yorkshire for inquiring into acts of violence and lawlessness, as with

was between him and master Thomas Gray who was holding his estate, after which he was against the said Thomas Ughtred in all manner of things touching the same assize contrary to his promise and contrary to the law of the land.

Also the said sheriff took Robert Walman servant to the said Thomas Ughtred without warrant and without indictment or without suspicion [cast upon him] and put him in durance and tortured him to within a little of death falsely to appeal the said Thomas Ughtred of felony and larceny contrary to his will and contrary to the law of the land, the which Robert abode in the said durance and tortures for a night and a day, whereby he was very near death for the durance that he suffered and he could not find any wrong on the part of the said Thomas Ughtred, and he kept the said Robert in prison until he paid fine to the said sheriff and to his officers of fifteen shillings and four pence.

B

[These] are the injuries and wrongs done to John Hotham, knight, junior,[18] by master Thomas Musgrave sheriff of York.

First, the said sheriff imprisoned the said John without process of law or indictment, or of any manner of appeal and without warrant and contrary to law, and the said sheriff held fourteen inquests against him and found no cause for imprisoning him, and the justices of our lord the king [both] of the peace and of the law, to wit, the lord Percy, master Ralph Neville, master John Mowbray, master William Finchden, and Roger Fulthorpe held seven inquests of the knights and more substantial squires in the said county and could not find anything against the said John Hotham [for which] to imprison him.

Also the said sheriff would not deliver the said John Hotham from the jail of York until the said John Hotham had found as mainpernors four knights and one esquire who are under obligation and straitly bound to the said sheriff, each for the whole, in five hundred pounds to bring the body of the said master John Hotham into the said prison at this Pentecost next coming or within that same time at one month's notice.

Also [19] the said sheriff counselled the said John Hotham, Simon Heserton, knight,[20] and William Cranswick [21] to cause themselves to be indicted by their friends by way of trespass, and if they should be so indicted, he would cause them to have an inquest to deliver them from it.

John Moubray and four others (*Pat. Rolls*, 12 Feb., 1365, p. 159), touching assaults, &c. at Scarborough; with W. de Fyncheden and eight others touching assaults, &c., at Wortelay, (ib. p. 140); with Henry de Percy, Roger de Fulthorp and eight others touching violence at Doncaster, 10 May, 1365, ib. p. 146; and with John Moubray, W. de Fyncheden, R. de Fulthorp and four others touching disorders in Cleveland (ib. p. 280). In 1366 he was a commissioner of array for the East Riding (ib. p. 365).

[21] This uncommon name occurs in a license dated 26 Feb. 1358, for the alienation by William de Crauncewyk and Cecily his wife of a messuage in Northampton to the Carmelite Friars there.

C

Ces sont les greuances et malicez faitz a Nichol de Hothum esquier par monsieur Thomas Musgraue viscounte Deuerwyk.

Adeprimes le dit viscounte enprisona le dit Nicol sanz proces de ley ou enditement ou dascune manere dappelle et sanz garaunt et encontre la ley, et le dit viscounte prist sur lui xiiij enquestes et ne troua nulle cause pour lui emprisoner et les Justices nostre seignour le Roi du pees et del lay cestassauoir le Sire de Percy monsieur Rauf de Neuille monsieur Johan Moubray monsieur William de Fynchedene et Roger de Fulthorpe pristrent vij enquestes des chiualers et des serjantz meultz vaillantz en la dite Counte et ne pourroient rien trouer sur le dit Nichol pour lui emprisoner. Item le dit viscount ne voleit deliuerer le dit Nichol hors de la Gayole Deuerwyk tanqe le dit Nichol auoit troue mainpernoure un chiualer pour soi obliger pour le dit Nichol au dit viscounte en C li.[22] pour amesner le corps le dit Nichol en la dite emprisone a ceste Pentecoste proscheyn auenir ou dedeinz mesme le temps par garnisement dun Mois. Item le dit viscount conseilla le dit Nichol, Simon de Heserton chiualer et William Craunsewyk pour lour mesmes faire enditer par lours amisteez par voie de trespas et sils fuissent issint enditez il lour ferroit auoir une enqueste pour ent eux deliuerer.

D

Et super hoc predictus Thomas de Musgraue coram consilio super premissis allocutus dicit qe qant as prises et le prisonementz des corps des ditz monsieur Thomas monsieur Johan et Nichol, Il v[oet] dire qil est viscount du Countee et un des Justicez de la peez. A qi grant clamour des plusours gentz de pays vient de jour en jour qi gentz cheuacherent od grante route de jour et de nuyt, portauntz les nuytz feu ouesqes eux manassauntz gentz qils serroient [arz] [23] sils ne firent fyns et rancouns cestassauoir aquns xx li. et aquns x li. et a ceo firent grantz enseignes il firent [les ten] celes de feu voler en tour lours maisons [et mist]rount en feu et en flamme un tasse de poises dount gentz de celles parties del Walde [24] furent mys en grant affraye et souent firount lours pleyntes priaunt remedie et aide del dit viscount et noserount en lours maison demourer sanz Wacches faire continuelement par nuyt par xij homes ou x, a grant custage et oppression du peple et aquns furent robbeez de grant auoir cestassauoir Walter de Cotes de iiij^{xx} et xv li. et autres diuerses gentz, les nouns des queux sont contenuz en une bille [consue a] icestes. [Dount le dit viscount voillant la pese garder come il fuist jurree et par sa ligeance tenuz] espia par tous les maneres qil poiast

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Pat. Rolls., pp. 16, 20, cf. the P. R. for 37 Ed. III, 16 May, 1363, p. 339. There is, however, a parish in the East Riding of Yorkshire, Hutton-Cranswick, probably connected with the family of the person mentioned in this case. In 1390 Edmund de Hothom sued John Godard, Kt. for a messuage and two carucates of land in Hoton Crauncewyke. *De Banco Rolls*, Mich. 14 R. II, m. 108. *The Genealogist*, N. S. xiv, 94.

[22] The pecuniary bail for the esquire is only one-fifth the sum demanded for each knight.

C

These are the injuries and wrongs done to Nicholas Hotham esquire by master Thomas Musgrave sheriff of York.

First, the said sheriff imprisoned the said Nicholas without process of law or indictment or of any manner of appeal and without warrant and contrary to law, and the said sheriff held fourteen inquests against him, and found no cause for imprisoning him, and the justices of our lord the king [both] of the peace and of the law, to wit, the lord Percy, master Ralph Neville, master John Mowbray, master William Finchden, and Roger Fulthorpe held seven inquests of the knights and more substantial squires in the said county and could not find anything against the said Nicholas [for which] to imprison him. Also the said sheriff would not deliver the said Nicholas out of the jail of York until the said Nicholas had found [as] mainpernor a knight to bind himself for the said Nicholas to the said sheriff in a hundred pounds[22] to bring the body of the said Nicholas into the said prison at this Pentecost next coming, or within the same time at one month's notice. Also the said sheriff counselled the said Nicholas, Simon Heserton, knight, and William Cranswick to cause themselves to be indicted by their friends by way of trespass, and if they should be so indicted, he would cause them to have an inquest to deliver them from it.

D

Whereupon the aforesaid Thomas Musgrave, summoned before the council touching the premises, says that as to the taking and imprisonment of the bodies of the said master Thomas, master John, and Nicholas, he w[ishes] to say that he is sheriff of the county and one of the justices of the peace. To whom a great outcry daily comes from divers country folk that folk ride on the high road by day and night, carrying by night fire with them, threatening folk that they should be burnt if they did not make fines and ransoms, to wit, some twenty pounds and some ten pounds, and to this end they made great display; they kindled sparks of fire around their houses and set afire and aflame a vat of pitch, wherefore folk of those parts of the Wold[24] were greatly affrighted and often made their complaints praying remedy and help of the said sheriff and did not dare to abide in their houses without keeping watch continually at night, twelve or ten men together, to the great cost and oppression of the people; and some were robbed of great substance, to wit, Walter Cotes of four score and fifteen pounds and divers other folk whose names are contained in a bill [sewn on to] these [papers]. [Wherefore the said sheriff wishing to guard the peace as he was sworn and bound by his allegiance] searched by all methods in his

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[23] This word, as also those which follow in square brackets, is supplied from the answer in membrane 4, which is in almost perfect condition.

[24] "At Hessle the Wolds of the East Riding of York begin, and stretch thirty-five miles long, and five to thirty broad." T. A. Sharp, *New Gazetteer* (1852), ii, 918.

par queux tiels roberies et affraies furent faitz et sur ceo lui nounsachaunt brief le Roi lui vient demaundaunt sur peyn [25] de taunt come il pourreit forfair qil ferreit arest et execucion des tielx qe tiels roberies et affraies firent ou autrement il serroit tenuz come mayntenour des ditz robbours et meffesours: et pur ceo qe comune esclaundre et clamour fuist qe ceux qi se pleignent a ore furent desclaundres des ditz faitz, le dit viscount les arestut, puis quele arest nulls affraies ne robberies ount este faitz en cels parties. Et la soertee qil prist de les parties attachez ceo ne fust pas pour profist prendre a lui mesmes mes qe eux serroient prestes destre [deuantz] le Roi et son conseil en cas qils fuissent maundetz come poet estre proue par lour defesaunce.[26]

Item quant a la destourbance qe lui est surmys qil duist auoir fait que les Justices le Roi ne pourrent aler a lour delieurance, le poiar ne fuist pas en lui a destourber ceux qi sount ses soueraignes as queux il coueynt qil soit obeisaunt, et sil plese al counseil ils pourrount [examiner] les ditz Justices, sil fist la destourbance ou nemy.

Item a ceo qest dist qil duist auoir counseille as ditz monsieur Thomas et monsieur Johan qeux se duissent mesmes auoir fait enditer par lours amyes et qil lour voldra fair auoir enquest de eux acquiter, la quele chose ne poet estre entendu par reson pour ceo qil ne fuist pas de lour counseil, mes il disoit qe en cas qeux ne ussent pas estee coupables meutz vaudroit a eux dauoir este bien acquitee qe touz jours demourer en suspecion des tielx malueistez saunz les counseiller destre enditez ou promesse faire de lour delieraunce.

Item de ceo qil duist auoir fait prendre Robert Walman seruaunt le dit Monsieur Thomas Ughtred et lui auoir tenuz en forte prison par destresse de lui fair auoir apelle son mestre, la cause de la prise de lui fuist pour ceo qe un Wauter de Cotes fuist robbe de nuyt de la sume suisdite pres de la demoer le dit Robert et comune clamour fuist et auxint fuist dit qil sauoit enfourmer de les meffesours et qil fuist mesmes partie a la robberye, issint fuist il pris par suspecion taunqe home ust enquis de lui, et apres de mesme la robberye est [endite] sanz ceo [27] qil lui enprisona pour lui fair appeller le dit Monsieur Thomas, ou nulle autre et saunz ceo qil prist nulle [dener] del dit Robert come est suppose par lour bille.

Item quant a la prise de Cent south del dit Monsieur Thomas destre en aide de lui en une assise quele Monsieur Thomas de G[ray] porta deuers lui et fuist encountre lui, a ceo il dist qil nauoit nulle tiel promesse ne couenant de lui mes [un Monsieur William] de Acclom [28] lui vient de part le dit Mon-

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[25] From this point the text is taken from membrane 4.

[26] "Defeizance cometh of the French Deffayre . . . that is, 'Infestum reddere quod factum est,' and signifieth a condition relating to a deed, as an Obligation, Recognisance, or Statute, which being performed by the Obligor, or Recognisor, the Act is disabled and annulled, as if it had never been done." J. Cowell, *Interpreter* (ed. 1701).

[27] The regular form of traverse; see *Select Cases in the Court of Requests* (Seld. Soc. 1898) and *Select Cases in the Star*

power by whom such robberies and affrays were made and thereupon, though he knew nothing of it, comes a letter of the king demanding, upon penalty of as much as he had to forfeit, that he should make arrest and execution of those who committed such robberies and affrays or otherwise he would be held as a maintainer of the said robbers and malefactors. And because there was common scandal and outcry that those who are now complaining were under the scandal of the said deeds, the said sheriff arrested them, since which arrest no affrays nor robberies have been committed in [those parts]. And the surety that he took of the parties attached was not for the purpose of taking profit to himself, but that they might be ready to be [before] the king and his council in case they should be commanded, as can be proved by their defeasance [clause].[26]

Also as to the delay surmised against him as having been made so that the king's justices could not go to their deliverance, it was not in his power to delay those who are his superiors to whom it is fitting that he should be obedient, and if it please the council, they will be able [to examine] the said justices, whether he caused the delay [alleged], or not.

Also to that which is said that he had, as was alleged, counselled the said master Thomas and master John that they ought to have caused themselves to be indicted by their friends and that he wished them to cause an inquest to be held for their acquittal — which thing ought not to be listened to, because he was not of their counsel—but he said that in case that they should not have been culpable, it would be better worth their while to be clearly acquitted than to remain always suspected of such misdemeanours, without counselling them to be indicted or promising their deliverance.

Also of the charge that he had caused the arrest of Robert Walman, servant of the said Master Thomas Ughtred, and had held him in stronghold by compulsion to cause him to summon his master, the cause of his taking him was that one Walter Cotes was robbed at night of the sum above mentioned near the dwelling of the said Robert, and there was a common cry and it was also said that he had information of the malefactors and that he was even party to the robbery, so he was taken on suspicion till inquiry about him could be made, and was afterwards indicted of the same robbery, without that that [27] he imprisoned him to make him [falsely] appeal the said master Thomas or any other, and without that that he took any penny of the said Robert as is suggested by their bill.

Also as to the taking of a hundred shillings of the said master Thomas to be of help to him in an assize which master Thomas G(ray) brought against him, and he (the sheriff) was opposed to him, to that he says that he, master Thomas, had no such promise nor covenant from him but [a master] William Acclom,[28] coming to him on the part of the said master Thomas Ughtred,

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Chamber (ib. 1902 and 1910). See W. S. Holdsworth, *Hist. Engl. Law*, iii, 477.

[28] Acklam or East Acklam is the name of a parish on the Wolds of the East Riding of Yorkshire (Sharp, *New Gazetteer*). It was at one time the seat of a family to

sieur Thomas Ughtred et lui profryst Cent south destre resonable amy et officer en la dite assise la quele soumme il refusa adonqes et le dit Monsieur William lui sourmyst qe en cas qe sil ne voleit la dite soume resceuire qe le dit Monsieur Thomas Ughtred outrement se desasseurast de lui qil ne lui voleit fair reson come attient a son office, et il lui respoundy qil ferroit duement son office, et apres les parties furent accordetz par mediacion des seignours de Percy Neuille Clifford[29] et de Moubray[30] et Monsieur Richard Lescrop,[31] issint qe la dite assise passereit par assent, et puis passa par assent, et issint le dit Monsieur William lui dona cel somme saunz ceo qil le prist en autre manere ou fuist encountre [en] cel assise.

Et super hoc quesitum est a prefato Thoma de Musgraue si aliquod speciale factum assignare velit erga predictos Thomam Ughtred Johannem de Hothom Chiualer le fitz et Nicholaum de Hothom vel si ipse cepit inquisicionem super premissis debito modo prout supponitur, vel si ipsi indictati fuerunt coram se, vel si aliquid inuenit cum eis de quo suspicio mali haberetur, qui se tenet responsioni sue supradicte. Et super hoc Henricus Dominus de Percy et Radulfus de Neuille ibi in consilio presentes qui assignati fuerunt per commissionem Domini Regis ad inquirendum super premissis et aliis examinati fuerunt, qui dicunt quod ipsi diligenter ceperunt inde inquisiciones . . . de diuversis locis in quibus oportuit et necesse fuit et fecerunt [homines] qui depredati fuerunt . . . iandum inquisiciones de veritate. Item quod nichil inuenerunt erga predictos Thomam Ughtred [Johannem et N]icholaum de Hothom de feloniis predictis nec audierunt quod predicti Thomas Johannes et Nicholaus de illis f[eloniis indictati. .] . . . de aliis feloniis qui . . . fuerunt suspecti vel disracionati. Et quia videtur

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which it gave its name. (Surtees Society, xli, p. 65.) This William Acclom is probably the William de Aclom who was together with Roger de Fulthorp, Thomas de Maulay, and two others, appointed commissioner of oyer and terminer on a complaint of violence at Skelton, Co. York, 2 December, 1367 (*Pat. Rolls*, 41 Ed. III, p. 69). As William de Aklome, he was nominated on 20 December, 1368, a commissioner of array for Yorkshire (*Pat. Rolls*, 42 Ed. III, 185).

[29] This was Roger Clifford, ninth Lord Clifford, fifth Baron of Westmorland, born in 1333. He was much employed upon the Northern borders. His career will be found sketched in the *Dict. Nat. Biog.* There are indications in the Patent Rolls that he was intimately associated with the Musgraves (*Pat. Rolls*, 28 Ed. III, p. 89; 1357, 31 Ed. III, p. 572). He was, on the 10 February, 1362, with John Moubray, Alexander Nevill, Roger Fulthorp and two others, appointed a commissioner of oyer and terminer in a case of illegal hunting, &c., at Maltby by Brathewell, Co. York (*Pat. Rolls*, 36 Ed. III, p. 207). Two years later he is styled " chivaler " (*Pat. Rolls*, 38 Ed. III, p. 503). On 12 May, 1365, he received a commission of oyer and terminer, together with Henry Percy, John Moubray, Simon Heselarton, Roger Fulthorp, and five others, in the case of a complaint by " Margaret, late the wife of Peter de Malo Lacu (de Mauly) le quynt " of violence at Doncaster (*Pat. Rolls*, 39 Ed. III, p. 146). This lady was his sister and had been left a widow in 1355 (G. E. C. *Complete Peerage*, v, 273). But though he was appointed to many like commissions in Yorkshire upon subsequent occasions, I have found no evidence of any in the case mentioned in the text.

[30] In his will (*Testamenta Eboracensia*, Surtees Society [1836], p. 116) dated 8 March, 1381/2, he appears as " Petrus de Malo Lacu, Sextus " that is, the sixth in order of the names. He devises his in-

proffered him a hundred shillings to be a favourable [friend and official in] the said assize, the which sum he then refused, and the said Master William suggested to him that in case of [his being unwilling] to receive [the said] sum, that the said master Thomas Ughtred would be exceedingly disheartened by his not being willing to act reasonably as pertains to his office; and he answered him that he would duly execute his office; and afterwards the parties were at an accord by the mediation of the lords Percy, Neville, Clifford [29] and de Maulay [30] and master Richard Scrope [31] that the said assize should be ended by consent, and it then ended by consent, and so the said master William gave him that sum without that he took it in any other manner or was [opposed to him] in that assize.

And thereupon the question was asked of the aforementioned Thomas Musgrave, if he desires to charge any particular act against the aforesaid Thomas Ughtred, John Hotham, knight, junior, and Nicholas Hotham, or if he himself held inquest of the premises in due manner as is supposed, or if they were themselves indicted before him, or if he found aught upon them whence a suspicion of crime might be entertained. The sheriff abides by his answer above said. And thereupon Henry Lord Percy and Ralph Neville there present in the council, who had been assigned by commission of the lord the king to inquire as to the above and other matters, were examined, and they say that they have diligently held inquest in that behalf . . . of diverse places in which it was right and needful and have caused the men who have been plundered . . . inquests touching the truth. Also that they have found nothing against the aforesaid Thomas Ughtred, [John and N]icholas Hotham touching the felonies aforesaid, nor have they heard that the aforesaid Thomas, John and Nicholas [have been indicted of those felonies] . . . of other felonies which . . . they had been

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terest in the manors, &c. conveyed to him by Henry Lord de Percy, Roger de Clifford, Sir John de Hothum and others in trust for his mother Margaret for life, &c. He succeeded his father at the age of 24 in 1355. He was himself a complainant in 1362 of violence done in his park of Boynton of the Walde, Co. York (*Pat. Rolls*, 36 Ed. III, p. 206), and again at other places in Yorkshire in 1366 (*Pat.* 40 Ed. III, p. 280). On the latter of these occasions the commission of oyer and terminer included John Moubray, William Fyncheden, Simon Heslarton and Roger Fulthorp, with four others (ib.). In 1365 he was a commissioner of array for the East Riding (ib. p. 365). M. 3 here reads Moubray; m. 4, Maulay.

[31] Sir Richard Scrope, or le Scrope; third son of Sir Henry le Scrope, chief justice of the king's bench, whose father "came of an obscure family originally seated in the East Riding and North Lincolnshire." The lives of both father and son are given in the *Dict. Nat. Biog.* Richard was knighted at the battle of Nevill's Cross in 1346; sat for Yorkshire in 1364 and in 1378 became chancellor. The Patent Rolls shew that he was frequently employed as a commissioner of oyer and terminer in Yorkshire; as in 1364 (38 Ed. III, pp. 69, 73; 1365, 39 Ed. III, pp. 146, 151). His seat appears to have been at Briggenale, York, where he complained of poaching in his park (8 July, 1365, *Pat. Rolls*, 39 Ed. III, p. 200). It is to be noted that though he is in this document styled "monsieur," yet as "Richard Scrope, Knight," he was on 22 May, 1365 nominated a commissioner of oyer and terminer in a case of violence at Colthorp and Bekerton, York (*Pat. Rolls*, 39 Ed. III, p. 147). He died in 1403.

consil[io . . . quod] predictus Thomas de Musgrave n[on a]llegauit aliquod factum speciale erga predictos Thomam Ughtred Johannem et Nicholaum nec ipsos cum aliqua re suspectos fore . . . ntes nec quod ipsi indictati fuerunt set sol[ummo]do quod communis clamor et scandalum super ipsos . . . er simile ex quo per aliquam inquisicionem in Com[itatu predicto cor]am Justiciariis nec vicecomite hoc potuit . . . quod [nulla] arestacio in hoc casu per legem terre potest justificari [dictu]m est predicto Thome de Musgraue quod . . . [rece]dat a villa quousque dominus Rex inde dixerit volunta[tem suam]. Et dictum est partibus predictis quod ut ipsi . . . voluerint [sequi] predictum Thomam de Musgraue pro dampnis in hoc . . . quod sequantur in scaccario domini Regis [vel in] Curiis Regis ad talia deputatis si sibi viderint [expediens].

LOWESTOFT *v.* YARMOUTH [1]

A PETITION OF LOWESTOFT

1378 Cestes sont les instances queles les gentz de Lowestoft poures tenantz nostre seignur le Roy [2] mettunt qe les bailleys [3] et burgeys de Jernemuth ne deiuent auoir chartre de Fraunchises touchant les harynges en faire de Kyrkeleyrode.[4]

Item qe come en le temps le Roi Edward laiel nostre seignur le Roy qor est [5] en parlement estoit ordine par estatut [6] qe chescun liege du roialme pourroit achater et vendre touz marchandises et vitailles sanz empeschement deinz Citees Burghes portes de meer et aillours, et si chartres de Fraunchises usages ou patent fuissent grantez a contrarie serroient tenuz pur nulle et la suite quele les ditz Baillyes et Burgeys ore pursuiont dauoir une chartre a contrarie du dit estatut est noun resonable et encountre le dit estatut.

Item auant ces heures par bon deliberacion de touz les seignurs et communes en plein parlement lour chartre fuit repelle pur profit du Roy e communes de la terre come adonqes estoit monstre et proue en le dit parlement.[7]

Item la ou par doun de dieu les niefs queles pregnont Harynges se arriuent en Kyrkeleyrode joust la dite ville de Lowestoft et ce qest pris en la meer de reson et bon foy le Marchauntz et Mariners des ditz niefs deussent vendre arriuer lour marchaundises a lour volunte et en ce qe les

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[1] *Parliamentary and Council Proceedings* (Chancery), file 12, nos. 2, 3, 4, consisting of A, petition of Lowestoft, B, a later petition, C, Answers of Yarmouth, D, Replication.

[2] That is, in "ancient demesne" (*terra regis*). See *Cases in Star Chamber* (Selden Soc. 1910), lxxx–lxxxiii; also B, n. 22, infra.

[3] Yarmouth was governed by a provost appointed by the king from the time of Henry I, till John, by charter of 18 March, 1208, granted it free election of its own

suspected or arraigned. And since the council is of the opinion . . . [that] the aforesaid Thomas Musgrave has not alleged any particular act against the aforesaid Thomas Ughtred, John and Nicholas, or that they have been suspected of anything . . . and since they have not been indicted, but only common cry and scandal [has been raised] against them, very likely since by an inquest in the [aforesaid] county before the justices or the sheriff this could not . . . that [no] arrest in this case can be justified by the law of the land, it is [forbidden] to the aforesaid Thomas Musgrave to [depart] from town until the lord the king shall have pronounced his will in that behalf. And the aforesaid parties were told that as they wished [to sue] the aforesaid Thomas Musgrave for losses in this . . . they should sue in the exchequer of the lord the king . . . or in the king's court appointed for such causes, if they shall see [fit].

LOWESTOFT *v.* YARMOUTH[1]

A PETITION OF LOWESTOFT

1378 These are the arguments stated by the people of Lowestoft, poor tenants of our lord the king,[2] [to prove] that the bailiffs[3] and burgesses of Yarmouth ought not to have a charter of franchises touching the herrings in the fair of Kirkley Road.[4]

Also that as in the time of the King Edward, the grandfather of our lord the king that now is,[5] it was ordained in parliament by statute[6] that every subject of the realm should be able to buy and sell all merchandises and victuals without impeachment within cities, boroughs, seaports, and elsewhere, and if charters of franchises or usages or patents should have been granted to the contrary, they should be held for null, and the suit that the said bailiffs and burgesses are now bringing to have a charter contrary to the said statute is not reasonable and [is] against the said statute.

Also before this time by good deliberation of all the lords and commons in full parliament their charter was repealed for profit of the king and commons of the land as was then shewn and proved in the said parliament.[7]

Also whereas by gift of God the ships which take herring put in at Kirkley Road near the said town of Lowestoft and that which has been taken at sea the merchants and mariners of the said ships in reason and good faith ought to sell [and] to land their merchandise at their will, and

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provosts; after which time it elected annually a provost and four bailiffs, sometimes also called provosts. H. Swinden, *Hist. of Great Yarmouth* (1772), pp. 48, 55.

[4] See Introduction, p. lxxxix.

[5] Edward III, grandfather of Richard II.

[6] 25 Ed. III, st. 3, c. 2 (1351).

[7] 1376. *Rot. Parl.*, ii, 330.

ditz baillies et burgeys pursuont dauoir un chartre qe touz les niefs deussent venir a Jernemuthe encountre la volunte des Mariners [est] ce encontre reson et bon foy et encontre le commune profit.

Item la ou en le temps le Roy Edward aiel nostre seignur le Roy qorest en plein parlement lan de son regne xxviij estoit ordine par estatut pur profit du Roi et communes du roialme qe nulle maner du nief qe soit frette deuers Engleterre ou aillours soit arte deuenir a nulle porte Dengleterre ne demurer encontre le gree des Mestres et Mariners dicelles ou des Marchauntz a queux les bien sont le quel estatut [8] ne estoit unqes repelle et en ce qe les ditz baillyes et burgeys pursuont dauoir un chartre qe touz maners niefs chargez du marchaundises et de Harynges et queux entront en Kyrkeleyrode qest vj lewes [9] hors de la dite ville du Jernemuthe les queles voillent vendre lour harynges illoeqes deussent venir au dite ville de Jernemuthe la dite pursuite est a contrarie du dit estatut; priantz les ditz communes de Lowestoft qe nulle tiel chartre soit graunte encountre le dit estatut esteant le dit estatut en sa force.

Item quant auant ces heures les ditz baillies et burgeys de Jernemuthe auoient un tiel chartre qe touz les niefs entrantz en Kyrkeleyrode chargez de marchandises et de harynges et les queles voillent lour harynges et marchandises illoeqes vendre deussent venir a Jernemuthe encontre la volunte des maistres mariners graunt damage et perde auient de ce pur ce qe quant le vent estoit en partie del este North Northeste ou Northweste nulle maner du nief purroit entrer en la dite hauen de Jernemuthe, et par taunt qe les Maistres ne purroient vendre lour marchaundises a autres a lour volunte les harynges estoient peritz et gettez a la foith en la meer par les mariners a graunt perde des communes Dengleterre par quel meschef graunt cherete a este de harynges quant les ditz baillies et burgeys auoient fraunchises.[10]

Item pur ce qe les mariners sont constrenez qils ne purroient en celles parties vendre lour harynges as autres qe a ceux de Jernemuthe et ce a lour volunte par cause de quel constreinement touz les mariners aliens amesnont lour harynges a lour parties demesne et issint graunt cherete de harynges est en celles parties a cause susdit.

Item quant les harynges deueinont en singulers mains issint par constreinement par colour de chartre du Roi les harynges sont le plus cheres a cause qe les ditz singulers persones vendent les harynges a lour volunte.

Item la ou diverses Pedelers et charreters des Countees de Cantebrigg, Oxenford, Huntyngdon, Bedeford, Bukyngham, Northampton, Ley[cester], Essex et Sussex soloient venir a les parties de Norffolk et Suffolk a lour volunte sanz cohercion et illoeqes achater harynges pur vitailler les dites Countees, les ditz Countees ne sont ore pas vitaillez par les ditz pedelers et charreters a cause qe les ditz pedelers et charreters ne purront achater

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[8] 28 Ed. III, c. 13 (1354).

[9] See Introduction, p. lxxxix, n.

[10] These allegations were found to be true by the Inquisition which reported on 26 September, 1381. See Introduction, p. xcii.

in case that the said bailiffs and burgesses sue to have a charter that all the ships ought to come to Yarmouth against the wish of the mariners, and that against reason and good faith and against the common profit.

Also whereas in the time of the King Edward grandfather of our lord the king that now is, in full parliament the twenty-eighth year of his reign, it was ordained by statute for profit of the king and commons of the realm that no manner of ship fraught towards England or elsewhere be compelled to come to any port of England nor to remain against the will of the masters and mariners of such ships, or of the merchants whose the goods be, the which statute[8] was never repealed, and in case that the said bailiffs and burgesses sue to have a charter that all manner of ships charged with merchandises and herring and that enter into Kirkley Road, which is six leagues[9] from the said town of Yarmouth, the which want to sell their herring there, that they must come to the said town of Yarmouth, the said suit is contrary to the said statute. The said commons of Lowestoft [are] petitioners that no such charter be granted contrary to the said statute, being the said statute in force.

Also as before this time the said bailiffs and burgesses of Yarmouth had such a charter that all the ships entering Kirkley Road charged with merchandise and herring that wished to sell their herring and merchandise there must come to Yarmouth against the wish of the masters [and] mariners, great damage and loss had they from this, because when the wind was in the East, North, Northeast, or Northwest quarter no manner of ship could enter into the said haven of Yarmouth, and for so much as that the masters could not sell their merchandise to others at their will, the herrings were spoilt and thrown at times into the sea by the mariners to the great loss of the commons of England, by which mischief there has been great dearness of herring when the said bailiffs and burgesses had [the] franchises.[10]

Also because that the mariners are constrained so that they should not be able to sell their herring in those ports to others than to those of Yarmouth and that at their will, because of which constraint all the alien mariners take their herring to their own countries and thus there is great dearness of herring in those ports for [the] abovesaid cause.

Also when the herring pass into private hands thus by constraint or pretext of the king's charter the herring are the dearer because the said private persons sell the herrings at their will.

Also whereas divers pedlars and carters of the counties of Cambridge, Oxford, Huntington, Bedford, Buckingham, Northampton, Leicester, Essex, and Sussex were accustomed to come to the parts of Norfolk and Suffolk at their will without coercion, and there to buy herring to victual the said counties, the said counties are not now victualled by the said pedlars and carters for the reason that the said pedlars and carters will not be able to buy herrings save at the will of those of Yarmouth and for the

harynges forsqe a la volunte de ceux de Jernemuthe, et a cause qe les ditz Pedelers et charreters ne purront venir au dite ville de Jernemuthe pur ceo qe lour couient passer deux passages vers la dite ville de Jernemuthe par grauntz risques et expenses.[11]

Item plese au Roy et seignurs qe nulle tiel chartre soit graunte as ditz Baillyes et Burgeys de Jernemuthe a contrarie des ditz estatutz et en damage et decresse de touz les communes par les causes auant nomez en eoure de charite.[12]

B Petition of Lowestoft

1379 Haranges . . .

Ces sont certeins causes par queux la chartre . . . par nostre Seignur le Roy graunte as baillifs et borgeys de Jernemuthe deit estre repelle.[13]

Pur ceo qe en temps le Roy Edward aiel nostre seignur le Roy qore est en parlement estoit ordeine par estatut qe chescun liege de roialme purreit acatre et vendre touz marchandises et vitailles sanz enpechement deinz Cites Burghs ports du Meer et aillours et si chartres du fraunchises usages ou patents fussent grauntez au contrarie serront tenuz pur nulle. Et en cas qe les ditz baillifs et Burgeys [ount] une chartre qe nulle achate entour lour dite ville par sept lieus est nounresonable esteant le dit estatut en sa force.[14]

Item la ou en temps mesme laiel en plein parlement lan du son regne xxviij^me^ estoit ordeine par estatut pur profit du Roy et communes du roialme qe nulle maner de Nief qe soit frette deuers engleterre ou aillours soit arte de venir a nulle port dengleterre ne demurer en contre le gree des mestres mariners dycelles ou des marchantz as quels les biens sont le quel estatut nestoit unqes repelle [15] et en cas qe les baillies et burgeys ount une chartre qe touz maners niefs chargez des marchandises et haranges et queux entrent en Kirkelerode qest en le Counte de Suffolk et sys lieus de la dite ville de Jernemuthe qest en le Counte de Norffolk queux voillent vendre les haranges illeoqes dussent venir a la dite ville de Jernemuthe est nounresonable, e a contrarie de dit estatut esteant le dit estatut en sa force.

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[11] This apparently refers to the topography of Yarmouth. "For as Italy is begirt on the one part with the Alps, and on the other three with the Seas, so is this Town of Yarmouth with the main Continent or firm land on the north part only, and with salt waters on the East, South, and West parts." Manship, *Hist. of Great Yarmouth* (1854), p. 9; cf. ibid., p. 51.

[12] A common form of petition to the council, a variant being "for the love of God and in the way of Charite." (*Select Cases in the Court of Requests*, Selden Soc., 1898, p. 5, &c: *Select Cases in the Star Chamber*, ib., 1902, p. 2, &c.) It indicated that the law provided no remedy.

[13] The probable date of this document is the close of 1379. See Introduction, pp. xciii–xcv.

The main differences between this document and A, on which it is based, may be seen by the following synoptical table:

reason that the said pedlars and carters will not be able to come to the said town of Yarmouth because they must make two passages towards the said town of Yarmouth at great risks and costs.[11]

Also may it please the king and lords that no such charter be granted to the said Bailiffs and Burgesses of Yarmouth contrary to the said statute and to the damage and decay of all the commons by the causes aforenamed; as a work of charity.[12]

B

Petition of Lowestoft

1379 These are certain causes for which the charter granted by the king to the bailiffs and burgesses of Yarmouth ought to be repealed.[13]

Because in time of the king Edward, grandfather of our lord the king that now is, it was ordained in parliament by statute that every liege of the realm should be able to buy and sell all merchandises and victuals without impeachment within cities, boroughs, seaports, and elsewhere, and if charters of franchises or usages should have been granted by patent to the contrary they should be held for null. And in case that the said bailiffs and burgesses [have] a charter that none buy around their town for seven leagues it is not reasonable, the said statute being in force.[14]

Also whereas in the time of the same grandfather in full parliament the twenty-eighth year of his reign it was ordained by statute for profit of the king and commons of the realm that no manner of ships fraught towards England or elsewhere be compelled to come to any port of England nor to remain against the will of the masters [and] mariners of such ships, or of the merchants whose the goods be, the which statute was never repealed,[15] and in case that the bailiffs and burgesses have a charter that all manner of ships charged with merchandises and herring and that enter into Kirkley Road which is in the county of Suffolk and six leagues from the said town of Yarmouth which is in the county of Norfolk that want to sell their herring there that they must come to the said town of Yarmouth [it] is unreasonable and contrary of the said statute being the said statute in force.

A *Against Grant of Charter*	B *For Revocation of Charter*
1. Statutory freedom of trade, 9 Ed. III, c. 1, (1335).	1. Statutory freedom of trade, 9 Ed. III, c. 1 (1335).
2. Former revocation of charter.	2. Statute against compulsion of ships to a specified port, 28 E. III, c. 13 (1354).
3. Yarmouth seeks compulsory powers against incoming ships.	3. 32 Ed. III (1357–8). Agreement for freedom of trade during fair at Yarmouth.
4. Statute against compulsion of ships to a specified port, 28 Ed. III, c. 13 (1354).	4. Former revocation of Charter.
	5. Compulsion to sell in Yarmouth unreasonable.
5. Difficulty of approach to Yarmouth. Consequent losses and dearness of fish.	6. Difficulty of approach to Yarmouth. Consequent losses and dearness of fish.
6. Alien mariners with their herrings driven away.	7. Alien mariners with their herrings driven away.
7. Monopoly makes herrings dearer.	8. Monopoly makes herrings dearer.
8. Pedlars and carters prevented victualling Eastern and Midland Counties, &c.	9. Pedlars and carters prevented victualling Eastern and Midland Counties.
	10. Offer of Lowestoft for right to customs at Kirkley Road.
	11. Vexatious prosecutions of Lowestoft people at Yarmouth.

[14] 9 Ed. III, c. 1 (1335).

[15] 28 Ed. III, c. 13 (1354).

Item par bone deliberacion des seignurs dengleterre en temps mesme laiel lan de son regne xxxij^{de} [16] acorde fust parentre les gentz de Jernemuthe et les gentz de Cynk ports[17] et les tenantz nostre seignur le Roy de Lowystoft a cause qe les ditz baillifs et burgeys de Jernemuthe pursueront dauoir eu une tiele chartre come ils ount a ore en lacord prist deuant le dit Roi et son conseil qen temps de feire touz gentz purront sanz enpechement achatre et vendre en touz les vessels qe vuillont en la dite Rode ancorer quel acord est de record en la chauncellerie et exemplifie desuz le seal le Roi quel acord est defait par la chartre a eux graunte esteant la dite chartre en sa force.[18]

Item auant ces [heures] par bone deliberacion de touz les seignurs et communes en plein parlement lour chartre fust repelle pur profit du Roy et communes de la terre come adonqe estoit monstre et proue en le dit parlement.[19]

Item la ou par doun de dieu les niefs quels preignent haranges se arreiuent en Kirkelerode jouste la dite ville de Lowystoft et ceo qe fu pris en la meer de reson et de bone foy les marchantz et mariners des ditz niefs dussent vendre et ariuer lour marchandise a lour volunte et en cas qe les ditz baillifs et burgeys ount une chartre qe touz les niefs dussent venir a Jernemuthe encontre la volunte des mariners est encontre reson et bone foy et le commune profit.

Item quant auant ces heures les ditz baillifs et burgeys de Jernemuthe auoient une tiele chartre qe touz les niefs entrant en Kirkelerode chargez des marchandises et de haranges quels veillent lour marchandises et haranges illeoqes vendre dussent venir a Jernemuthe encontre la volunte des mestres mariners et graund damage et perde vient de ceo pur ceo qe quant le vent estoit en partie del Est, North ou Northest ou Northwest nulle maner de nief purroit entrer en la dite hauene de Jernemuthe et par tant qe les maryners ne poerent vendre lour marchandises as autres a lour volunte les haranges estoient periz et gettez a la foith en la meer par les maryners a graund perde des communes dengleterre par quele mischief graunde chierte ad este des haranges et uncore serra si autre remedie ne soit ordeine a la cause susdite.

Item pur ceo qe les maryners sount constreintz qils ne purront en celles parties vendre lour haranges as autres qe a ceux de Jernemuthe et ceo a lour volunte par cause de quele constreinement touz les maryners aliens amesnont lour haranges a lour parties demesne et issint grant chierte de haranges est en celles parties et uncore serra si autre remedie ne soit ordeine.

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[16] This was an order of the council dated 10 July, 1357, known as the Ordinance of Herring, printed in the *Statutes of the Realm* as 31 Ed. III, st. 2 (1357). Compare *Patent Rolls*, 574, 654; also 35 Ed. III, c. 1.

[17] The Barons of the Cinque Ports appear to have exercised a jurisdiction at Yarmouth from time immemorial confirmed by King John, Edward I, and subsequent sovereigns. Swinden, p. 172, &c.

Also by good deliberation of the lords of England in the time of the said grandfather the thirty-second year of his reign [16] it was agreed among the people of Yarmouth and the people of the Cinque Ports [17] and the Lowestoft tenants of our lord the king, because that the said bailiffs and burgesses of Yarmouth would sue to have had such a charter as they have now, whereas the agreement taken before the said king and his council that in time of fair all people shall be able without impeachment to buy and sell in all the vessels that wish to anchor in the said Road, which agreement is of record in the Chancery and exemplified under the king's seal, which agreement is defeated by the charter granted to them, being the said charter in its force.[18]

Also before this time by good deliberation of all the lords and commons in full parliament their charter was repealed for profit of the king and commons of the land as was then shewn and proved in the said parliament.[19]

Also whereas by gift of God the ships which take herring put in at Kirkley Road near the said town of Lowestoft and that which has been taken at sea the merchants and mariners of the said ships in reason and good faith ought to sell and to land their merchandise at their will, and in case that the said bailiffs and burgesses have a charter that all the ships ought to come to Yarmouth against the wish of the mariners it is against reason and good faith and the common profit.

Also as before this time the said bailiffs and burgesses of Yarmouth had such a charter that all the ships entering Kirkley Road charged with merchandise and herring that wished to sell their merchandise and herring there must come to Yarmouth against the wish of the masters [and] mariners and great damage and loss come from this because that when the wind was in the East, North or Northeast or Northwest quarter no manner of ship could enter in the said haven of Yarmouth and thereby that the mariners could not sell their merchandise to others at their will, the herring were spoilt and thrown at times into the sea by the mariners to the great loss of the commons of England, by which mischief there has been great dearness of herring and yet shall be if other remedy be not ordained for the cause aforesaid.

Also because that the mariners are constrained so that they shall not be able to sell their herring in those parts to others than to those of Yarmouth and that at their will, because of which constraint all the alien mariners take their herring to their own countries and thus there is great dearness of herring in these parts and ever shall be if other remedy be not ordained.

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[18] This was the charter granted during the session of the parliament at Gloucester in October, 1378, substantially confirming John of Gaunt's provisional order of the previous April. See Introduction.

[19] A reference to the revocation of 1376. See Introduction, p. xci.

Item quant les haranges deuenent en singulers meins issint par constreinement par colour de chartre le Roy les haranges sount les plus chiers a causes qe les ditz singulers persones vendount les haranges a lour volunte.

Item la ou diverses pedelers et charieters de Countees de Suffolk Cantebrig' Oxon' Hunt' Bedeford, Buk' Northt' Leycestre et Essex soleient venir a les parties de Suffolk et Norfolk a lour volunte sanz cohercion et illeoqs achater haranges pur vitailler les ditz Countees les ditz Countees ne sount pas ore vitaillez par les ditz pedelers et charietters a cause qe les ditz pedelers et charietters ne purront achatre haranges forsqe a la volunte de ceux de Jernemuthe et a cause qe les ditz pedelers et charietters ne purront venir a dite ville de Jernemuthe pur ceo qe lour couient passer deux passages vers la dite ville de Jernemuthe par grant costages et expenses.

Item nostre seignur le Roy ad grante as ditz baillifs et burgeys sa custume en la dite Rode et annexe al hauene de Jernemuthe mesme la Rode et ceo pur sent souldz a lui paier par an a cause de quele doun [20] certeins gentz de Jernemuthe meintenent illeoqs un barge oue quatre vinctz gentz desdeinz armez a feer de guerre issint qe nulle vessel illeoqs ose arriuer pur quel custume auoir les tenantz nostre seignur le Roi de Lowystoft et issint qe touz gentz purroient illoqes achatre et vendre dorroient au Roi par an xx li.[21]

Item certeins gentz de Jernemuthe pursuent les tenantz nostre dit seignur le Roi de Lowestoft [22] en duierses courts le Roy [23] pur chose qe dust estre fait en la dite Rode le quel si en ascune Countee isoit est en le Counte de Suffolk, et par colour de dite chartre trient par gentz de Norfolk et eux condempnent en graunds sommes cestasauer ascuns en xl li. et ascuns en xl marcs les queux ils ne purront porter lequel est encontre la ley de la terre qe gentz dun Counte deyuent trier chose fait en autre Counte [24] issint qe les ditz tenantz le Roy illoeqes par tiels fauxetes sount destruitz et en apres serront et les communes du roialme graundement enpoueriz a causes susditz si la dite chartre ne soit repelle.

C Answer of Yarmouth

1380 Responce ex parte Jernemuth'.

Ceux sont les responces a certeynes articles comprises deyns une bille pursuy par certeynz gentz a defaire et repeller la chartre de Jernemuthe queux articles ou les responces ensuont en la forme qe ensuit.

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[20] i. e. grant. This was on 22 Aug. 46 Ed. III (1372). The charter is printed at length in Swinden, *History of Yarmouth*, pp. 379–81.

[21] This was a bribe of £15 to the crown, Yarmouth only paying £5 for the annexation of Kirkley Road. That it was a reasonable offer may be inferred from the fact that some thirteen years later, in 1393, Lowestoft came to an agreement with Yarmouth to farm the dues taken at Kirkley Road, for which it paid £23 per annum, raised to £26 in the year following. Swinden, p. 643; Gillingwater, p. 134.

[22] Lowestoft, in Domesday Lothu Wistoft in the manor of Gorlestun, *Terra Regis* (A. Snelling, *Hist. Suffolk* (1846–48), ii, 59). "Terra Regis" marks ancient de-

Also when the herring pass into private hands thus by constraint or pretext of the king's charter the herrings are the dearer because the said private persons sell the herrings at their will.

Also whereas divers pedlars and carters of the counties of Suffolk, Cambridge, Oxford, Huntingdon, Bedford, Buckingham, Northampton, Leicester, and Essex were accustomed to come to the parts of Suffolk and Norfolk at their will without coercion and there to buy herring to victual the said counties, the said counties are not now victualled by the said pedlars and carters, for the reason that the said pedlars and carters will not be able to come to the said town of Yarmouth because they must make two passages towards the said town of Yarmouth at great costs and charges.

Also our lord the king has granted to the said bailiffs and burgesses his customs duty in the said Road and has annexed the same Road to the haven of Yarmouth and that for a hundred shillings to be yearly paid to him, because of which gift [20] certain folk of Yarmouth keep there a barge manned with four score armed men to make war so that no vessel is able to put in there, to have which custom the Lowestoft tenants of our lord the king (and so that all people should be able to buy and sell there) would give £20 yearly to the king.[21]

Also certain people of Yarmouth bring action against the Lowestoft tenants of our said lord the king [22] in divers of the king's courts [23] for what ought to be done in the said Road the which if it be in any county is in the county of Suffolk, and upon pretext of the said charter they try (them) by Norfolk people and condemn them in great sums, to wit, some in £40 and some in 40 marks, which they will not be able to bear. This against the law of the land that people of one county should try anything done in another county,[24] so that the said tenants of the king there by such falsities are well-nigh destroyed and the commons of the realm greatly impoverished for the reasons abovesaid if the said charters be not repealed.

C Answer of Yarmouth

1380 These are the answers to certain articles comprised in a bill promoted by certain persons to set aside and repeal the charter of Yarmouth, which articles with the answers follow in the following form:

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mesne. (See E. Coke, *4 Inst.*, pp. 269–270.) Hence, the men of Lowestoft were the king's tenants.

[23] Legal proceedings had been carried on at intervals since 1373. See an indictment of that year by Yarmouth against Lowestoft men in Swinden, p. 615.

[24] This was probably good law. Glanville, it is true, says (xiii, 6), "Ab initio eligendi sunt duodecim liberi et legales homines de visineto," writing of the jury of possessory assizes. In the *Articuli super Chartas* of 28 Ed. I, the sheriff or bailiff shall put on a jury for trying an issue between king and subject, or between party and party, "le(s) plus procheins" (E. Coke, *2 Inst.* 560, 561). Hence, the Hundredors who in the time of Ed. III regularly numbered six (Blackstone, *Comm.* iii, c. 23) which implies Hundredors of one county. In the time of Fortescue, this number had fallen to four (*De Laudibus*, c. xxv). Under Elizabeth, it was determined by all the judges that the juror

Responcio ad primum articulum qui incipit: pur ceo qe en temps le Roy E. aiel nostre seignur le Roy qore est en parlement estoit ordeigne par estatut qe checon lige de Realme porreyt achatere et vendre etc.[25]

La dite chartre nest past grante a contrarie del dit estatut a cause qe touz gentz si bien alienes come deynseynes par la dite chartre sont frankes de vendre et achatre haranges et touz autres Marchandizes a grant Jernemuthe durant la feire illeoqes sanz destorbance de nully,[26] et si nul singuler persone eit rienz mespris encountre lestatut en la chartre suisdite soit [ame]sne en responce et punyz solonk la quantite de son trespas et outre ceo il nyad feire ne marche deyns les ditz vij leukes par grant nostre seignur le Roy par title de prescripcion neu autre manere en taunt qe si les ventes et achates fuissent suffertz deinz les ditz vii leukes de haranges ou des autres marchandises ceo serroit sanz garrant et en destruccion de la dite feire qe ne doit estre suffert par estatut ne par nulle ley considerez les grantz charges qe la ville de grant Jernemuthe emporte deuers nostre seignur le Roy pur la feire suisdite[27] et qe la dite ville ne poet estre suistenuz si la dite feire soit par tiels ventes et achates destroitz.

Responcio ad secundum articulum qui incipit: Item la ou en temps mesme layel en plein parlement lan de son regne xxviij etc.[28]

Lestatut fait en le dit an xxviij en partie ad perdu sa force qe par lestatut fait de puisne temps est ordeigne qe nul harange soit vendu en le meer nen Kirkelerode tanqe les niefs seient venuz al ville de Jernemuthe et les cordes des niefs tretz sur la terre illeoqes le quele estatut estiet[29] unqore en sa force nient repelle et les pessoners sont a lour franche volunte daler ou lour haranges ou lour plest sauue qe ils ne vendront poynt deynz les ditz vij leukes a cause come desuis est premis.

Responcio ad tertium articulum qui incipit: Item par bone deliberacion de seignours Dengleterre en temps mesme laiel lan de son regne xxxij acorde fuit parentre les gentz de Jernemuthe les gentz de v. portz et les tenantz nostre seignour le Roy de Lowestoft.[30]

Le dit acord est anientiz et repelle a cause qe il est trouue nonresonable come piert par diuers enquerres et examinementz fait deuant mon seignour le Counte de Suffolk et autres sages Justices assignes par comission nostre seignour le Roy des quels enquerres et examinementz par force de la dite

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"must have freehold in that county where the cause of action ariseth, and though he hath in another, it sufficeth not." (*1 Inst.* 157 a.) The suggestion here is that the cause of action arose in Suffolk.

[25] 9 Ed. III, c. 1.

[26] A proviso was inserted in the charter of 1378, "that all manner of people, as well denizens as strangers, may freely sell and buy herring within the said town, during their fair, without any impeachment whatsoever, and as freely as the denizens there." (*Rot. Parl.* iii, 49.) Cf. also the Statute of Herrings, 31 Ed. III, st. 2 (1357). The fair lasted from Michaelmas (29 September) to St. Martin's day (11 November), during which time Yarmouth was the resort of a "great store of sea-faringe men, as also of greate numbers of the fishermen of Fraunce, Flaunders, and of Holland, Zealande, and all the low countryes." Palmer, p. 67.

[27] A hundred shillings yearly (in addition to the fee farm of £55 fixed by

Answer to the first article which begins: "Because in time of the king Edward, grandfather of our lord the king that now is, it was ordained in parliament by statute that every liege of the realm should be able to buy and sell, etc." [25]

The said charter has not been granted contrary to the said statute, because all persons as well aliens as denizens are by the said charter free to sell and buy herring and all other merchandise at Great Yarmouth during the fair there without disturbance of any,[26] and if any private person has in any way offended against the statute in the charter abovesaid he may be brought to answer and punished according to the amount of his trespass, and besides this there is neither fair nor market within the said seven leagues by grant of our lord the king by title of prescription nor otherwise insomuch that if sales and purchases had been suffered within the said seven leagues of herrings or of other merchandises it would be without warrant and to the ruin of the said fair, which ought not to be suffered by statute nor by any law considering the great charges that the town of Great Yarmouth bears towards our lord the king for the fair abovesaid,[27] and that the said town can not be maintained if the said fair be by such sales and purchases ruined.

Answer to the second article which begins: "Also whereas in time of the same grandfather in full parliament the twenty-eighth year of his reign, etc." [28]

The statute made in the said twenty-eighth year has in part lost its force [because] that by the statute made at a later time it is ordained that no herring be sold at sea nor in Kirkley Road until the ships be come to the town of Yarmouth and the ships' ropes drawn on to the land there, the which statute is [29] yet in force unrepealed and the fishermen are at their free will to go with their herring where they please, save that they shall not sell anything within the said seven leagues for the reason premised as above.

Answer to the third article which begins: "Also by good deliberation of the lords of England in the time of the same grandfather the thirty-second year of his reign it was agreed among the people of Yarmouth, the people of the Cinque Ports, and the Lowestoft tenants of our lord the king." [30]

The said agreement is annulled and repealed because found unreasonable, as appears by divers inquiries and examinations made before my lord the Earl of Suffolk and other wise justices appointed by commission of our lord the king, of which inquiries and examinations by force of the said

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King John) by the charter of 22 August, 46 Ed. III (1372). See Swinden, p. 379, n.

[28] See n. 15, supra.

[29] This refers to the Statute of Herrings of 1357, three years later, of which the first clause was: "That no Herring be bought or sold in the Sea, till the Fishers be come with their Herring, and that the cargo of the ship be drawn to the land," where the translator in the Statutes of the Realm incorrectly renders "corde" by "cable." 31 Ed. III, st. 2.

[30] See n. 16, supra.

comission pleyn relacion est fait par mon dit seignour et les autres sages suisditz en lour darreyn parlement tenuz a Gloucestre.

Responcio ad quartum articulum qui incipit: Item auant ces heures par bone deliberacion de touz les seignours et communes en pleyn parlement pur profit du Roy et communes de la terre lour chartre etc.

La dite chartre fuit repelle [31] sanz responce et demurra repelle tanqe la relacion fuit faite en parlement a Gloucestere come desuis est dit par quele relacion et plusours autres euidentes causes monstres en le dit parlement de Gloucestre par assent de mesme le parlement pur honour et profit de nostre seignour le Roy et del realme une nouele chartre fuit grante [32] al dite ville de Jernemuthe dauoir et enjoyer touz lour franchises si auant come ils aueient auant le dit repel.

Responcio ad quintum articulum qui incipit: Item la ou par don de dieu les niefs qe preignent haranges en Kirkelerode etc.

Les pessoners sont frankes de passer oue lour haranges ou lour plest come desuis est dit sauue qils ne vendront pas lour haranges en la dite rode a cause suisdite qe ceo est aperte forstalrie [33] et souent foith deuant ces houres plusurs gentz pur tielz forstalries en la dite rode unt este endites et unt fait lour fine par cel cause a nostre seignour le [Roy] come piert par recorde en lescheker.[34]

Responcio ad sextum articulum qui incipit: Item qant auant ces houres les ditz baillifs et burgeys auient tiele chartre qe touz les niefs entrant en Kyrkelerode etc.

Les pessoners poent vendre lour haranges a lour volunte come desuis est dit et en temps de pescherie [35] touz les niefs apellez fissheres poent bien entrer d[einz le] p[ort] de Jernemuthe en quele partie qe le vent soit sil ne soit par cause de grant tempeste et qe adonqes hom ad use de tout temps damener le haranges deinz le dit port par certeyns vessels appelez lyghteres [36] et illeoqes vendre en la dite feire sanz nul harang jeter en le meer come les gentz de Jernemuthe serrount prestz a prouer en pleyn parlement.

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[31] In 1376 by an order in Council. See Gillingwater, p. 128, n. and Introduction, p. xciii, supra.

[32] 24 November, 1378.

[33] This is perhaps taken from the Ordinance of Herrings, of 1357, which enacts "que . . . nul autre qui que ceo soit, venant a la dite feyre, naille par mier ne par terre de forstaller le harang en prive nen aperte," &c. The legislature was very severe upon forestallers, whose offence is set out in the thirteenth-century *Statutum de Pistoribus*, &c., printed in *Statutes of the Realm*, I, 202, as follows: "But especially be it commanded on the Behalf of our lord the King, that no Forestaller be suffered to dwell in any town, which is an open oppressor of Poor People, and of all the Commonalty, and an Enemy of the whole Shire and Country, which for Greediness of his private Gain doth prevent others in buying Grain, Fish, Herring, or any other Thing to be sold coming by Land or Water, oppressing the Poor and deceiving the Rich, which carrieth away such Things, intending to sell them more dear; the which come to Merchants Strangers that bring merchandize, offering to buy, and informing them that their Goods might be dearer sold than they intended to sell, and a whole Town or a Country is deceived by such Craft and Subtilty," &c.

commission full report has been made by my said lord and the other wise [justices] aforesaid in their last parliament held at Gloucester.

Answer to the fourth article which begins: " Also before this time by good deliberation of all the lords and commons in full parliament for profit of the king and commons of the land their charter, etc."

The said charter was revoked [31] without reply and remained revoked until the report was made in parliament at Gloucester as above said. By this report and sundry other evident reasons shewn in the said parliament of Gloucester by assent of the same parliament for the honour and profit of our lord the king and of the realm a new charter was granted [32] to the said town of Yarmouth to have and enjoy all their franchises as well as they had [them] before the said repeal.

Answer to the fifth article which begins: " Also whereas by gift of God the ships which take herrings in Kirkley Road, etc."

The fishermen are free to pass with their herrings where they please as has been said above save that they shall not sell their herrings in the said road for the cause above said that it is open forestalling [33] and oftentimes before this sundry persons for such forestallings in the said road have been indicted and have made their fine for this cause to our lord the [king] as appears by record in the Exchequer.[34]

Answer to the sixth article which begins: " Also as before this time the said bailiffs and burgesses had such a charter that all the ships entering Kirkley Road, etc."

The fishermen can sell their herring at their will as is abovesaid and in the fishing season [35] all the ships called fishers can certainly enter into the port of Yarmouth in whatever quarter the wind may be unless it be not [possible] because of a great storm and that then one has at all times used to bring the herring within the said port by certain vessels called lighters [36] and there to sell them in the said fair without throwing any herring into the sea as the people of Yarmouth will be ready to prove in full parliament.

For the punishment see next note. The operations of forestallers in the Yarmouth herring trade are set out in detail in the ordinance of herrings of 20 February, 35 Ed. III (1361), printed in the *Statutes of the Realm*, i, 369.

[34] If convicted on indictment, the whole value was forfeited to the king: if at suit of the party grieved, half to the prosecutor and half to the king. The buyer was liable to a fine of the amount paid by him, and in default two years' imprisonment. 25 Ed. III, st. 3, c. 3 (1351).

[35] Herrings appear at the Norfolk coast the last week of September, for the purpose of spawning, and are then in the best condition to become the food of man. . . . They return to their former haunts about the commencement of December. Palmer, p. 308. " The mackerel fishery is another great source of employment and profit. It commences on the tenth of May, and ends on the tenth of July." Ibid. p. 312.

[36] The inquisition held at Weybrede, Suffolk, dated 29 July, 1372, which preceded the charter of 26 August, following, returned that " the entry to the harbour has been so dried up of late that no laden ship can enter there in the harbour aforesaid unless it first be unladen in the aforesaid place called Kirkelee-Rode," &c. (Swinden, p. 378). Hence the need of lighters.

Responcio ad septimum articulum qui incipit: Item pur ceo qe les maryners sont constreyntz qe ils ne puent en celle partie vendre lour haranges etc.

Les maryners sont a lour volunte come desuis est premys et de tout temps unt use daler oue lour haranges en lour parties demesne qant le vent lour sert; sanz ceo qe les ditz mariners sont constreyntz come desuis est dit, come les gentz de Jernemuthe serront prestz a prouer en ceste presente parlement.

Responcio ad octauum articulum qui incipit: Item qant les harangges deueignent en singulers meyns etc.

Le harang nest pas vendu par constreynement qar la feire de Jernemuthe est frank come desuis est dit, et si nul singuler persone eit[37] mespris en prejudice de la dite feire seit puny pur son trespas come desuis est dit.

Responcio ad nouum articulum qui incipit: Item la ou diuers Pedlers et chariotterz des Countes de Suffolk, Cauntebrig, Oxon, Hunt', Bedeford, Buk', Northamt', Leicestre et Essex etc.

Touz les Countes Dengleterre forpris le Counte de Suffolk poent avoir bone et esee passage ou chiua[ux] [et] charettes al ville de Jernemuthe sanz passage de ewe et ill[oeqes ach]atre haranges a mesme . . . qe en la dite rode ou aillours sanz estre mis a tiels outrageouses costages et dispences.

[Responcio] ad decimum articulum qui incipit: Item nostre seignour le Roy ad graunte [as] ditz Baillifs et Burg[eys sa custume] en la dite rode et annexe al dit hauene etc.

Le haranges venduz en la dite rode en temps de pes[cherie] . . . les vessels hors des quels . . . haranges est venduz sont forfetables a nostre seignur le Roy[38] des queux forfetures les baillifs de Jer[nemuthe] deuont respondre come pleignement appiert par la dite chartre[39] et par celle cause unt ils un[e ba]rge . . . xx oue xxx persones et alafoith plusurs et a la foith meyns tus gentz bien conus et de bon [fame] et ne mie a feer de guerre de seisir les dites forfetures al oeps nostre seignur le Roy sanz ri[en] . . . encountre la pees et de graunter une feire en Kirklerode pur xx li. par aan serroit gr[and] damage et distres a nostre seignur le Roy et tout le realme qar ceo serroit en distruccion de la dite v[ille de] Jernemuthe quele ville ad fait plusurs honours et profitz as nobles progenitours nostre [seignur le Roy] et al dit realme come bien est conus par plusurs seignours Dengleterre et de la quele vi[lle] . . . le Roy prit[40] annuelment a fea

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[37] MS. "eu" or "en," I emend "eit," "en" giving no sense.

[38] The charter of 1378 "granted and confirmed to the burgesses, &c. . . . the liberties and privileges to them by our grandfather formerly so given and granted." (See Swinden, p. 626.) This restored the charter of 46 Ed. III (26 August, 1372), which forbade "to hold any fair, or to sell or buy any herrings or other wares, on account of merchandising, but only at the town of Great Yarmouth or in the haven of the same, upon forfeiture of the ships and boats so to be laded or unladed, and the herrings and other merchandises, which shall so happen to be laded, or unladed, or from that time to be put to sale in such fairs, or elsewhere by way of merchandiz-

Answer to the seventh article which begins: "Also because that the mariners are constrained so that they are not able to sell their herrings in that part, etc."

The mariners are at their own will as is premised above and at all times have used to go with their herrings into their own parts where the wind serves them. Without that the said mariners are constrained as is above said, as the people of Yarmouth will be able to prove in this present parliament.

Answer to the eighth article which begins: "Also when the herrings pass into private hands, etc."

Herring is not sold by constraint, for the fair of Yarmouth is free as abovesaid, and if any private person should have misdone to the prejudice of the said fair he may be punished for his trespass as is abovesaid.

Answer to the ninth article which begins: "Also whereas divers pedlars and carters of the Counties of Suffolk, Cambridge, Oxford, Huntingdon, Bedford, Buckingham, Northampton, Leicester, and Essex, etc."

All the counties of England except the County of Suffolk can have good easy passage with horses [and] carts to the town of Yarmouth without ferry of them and there buy herring at the same . . . as in the said road or elsewhere without being put to such excessive costs and expenses.

[Answer] to the tenth article which begins: "Also our lord the king has granted to the said bailiffs and burgesses his customs-duty in the said Road and has annexed to the said haven, etc."

The herrings sold in the said road in fishing time . . . the vessels outside of these . . . herrings is sold are forfeitable to our lord the king,[38] for which forfeitures the bailiffs of Yarmouth must answer as plainly appeareth by the said charter [39] and for this reason they have a barge . . . twenty or thirty persons and sometimes more and sometimes less, all well known men and of good [fame] and not to make war [but] to seize the said forfeitures to the use of our lord the king without anything [doing] against the peace. And to grant a fair in Kirkley Road for twenty pounds yearly would be a great loss and damage to our lord the king and the whole realm, for this would be to the ruin of the said town of Yarmouth, which town has done many honourable and profitable [services] to the noble progenitors of our [lord the king] and to the said realm as is well known by many lords of England. And of this town . . . the king takes yearly for

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ing, contrary to the said prohibition, to be applied to the uses of us and our heirs." Ibid. 381.

[39] The charter continues: "Of which forfeitures aforesaid we will, and have granted for us and our heirs, that the bailiffs . . . for the time being may and shall inquire from time to time, and take them into the hand of us, and cause them to be safely kept for our use, and answer to us and our heirs thereupon into the Exchequer . . . every year at the terms of St. Michael and Easter." Ibid.

[40] Probably for "print," "takes."

ferme x li.[41] et a checun xv. leue deinz le realme [42] . . . plusurs autres profitz.

Responcio ad undecimum articulum qui incipit: Item cert[eins gentz] de Jernemuthe pursuont les tenauntz nostre seignur le Roy de Lowistoft en diuers court . . .[43] La chartre nest mie repellable par cause de ceste article mes si nul singuler persone eit tres[passe] [44] encontre le dit article seit mesne en responce et puny pur son trespas sil soit troue . . . .

Plese a nostre seignour le Roy et as nobles seignours de parlement de sauoir et entend[re] . . . de la graunt chierte de haranges qe ad este ore en ceste aan et unqore est qe la fei[re] y de Skardeburgh [45] et de Whiteby [46] faillist come bien est conuz as gentz de celles parties . . . les costes parentre l . . . Jernemuthe il[s] naueint nul harang pris en ceste a[an] . . . qe il nauoit nul harang de acompter . . . non a Jernemuthe et ille[oqes] [47] . . . pas penduz la qarte partie de harang . . . penduz illeoqes [48] de . . . et nient meyns mil last [49] de harang en le darreyn pescherie fuit venduz a . . . en ceste aan entre ix mar[iners ?], issynt qe de resun de bon . . . la dite ch[ie]rte . . . arette par cause de la dite chartre de Jernemuthe.

[*Endorsed:*] F . . . . . . Parlement tenuz a Westminster le . . . Sainct Hiller lan nostre seignur le Roy [50] . . . .

D REPLICATION OF LOWESTOFT

Harang

[Secunda] [51] replicacio facta ex parte communitatis Suff' ad responsionem . . . .

Le primer respounce qils ount done nest pas respounce pur meyntener lour chartre encountre lestatut car couient qe tels . . . sont frankez de

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[41] This is incorrect, and should be LV. There is some sign that the clerk was uncertain, a space being left which would allow for the V; but the MS. is much defaced.

[42] By the assessment of 1334, which long remained a fixed composition for fifteenths and tenths, the tenth was levied on cities, boroughs, and lands of ancient demesne, and the fifteenth on the counties generally (*Rot. Parl.* ii, 447). The higher scale of taxation on the former class was doubtless to balance their special privileges. Here, a fifteenth is presumably an abbreviated form of "a Fifteenth and Tenth." In 1377 two fifteenths and tenths were granted by Parliament (*2nd Report of the Deputy Keeper*. Append. ii, p. 135).

The indecipherable condition of the MS. at this point is peculiarly unfortunate because, so far as it can be read, it suggests that Yarmouth only paid fifteenths. The Rev. W. Hudson has printed in Norfolk Archaeology, XII, 243 (1895), "The Assessment of the Townships of the County of Norfolk for the King's Tenths and Fifteenths, as settled in 1334." The indenture which prefaces the list describes it as a "Tenth from the Cities, Boroughs, and Demesnes of the king, and a Fifteenth from the Commonalty of the County." Here Yarmouth's is the highest assessment, viz. £100. Norwich, which ranks next, is assessed at £94 12/. It has been seen in the Introduction (p. xc, supra) that Yarmouth in 1378 professed to have been injured by the revocation of its charter. At later periods it frequently procured total exemption, e. g. in 31 Hen. VI; 4 and 8 Ed. IV; 3, 5, 7, and 12 Hen. VII; 3, 5, 7, 26, 32, and 37 Hen. VIII. Qu. Whether in the collection of

fee farm ten [41] pounds and at every fifteenth raised within the realm [42] . . . many other profits.

Answer to the eleventh article which begins: "Also certain persons of Yarmouth sue the Lowestoft tenants of our lord the king in divers court[s]" [43] . . . . The charter is not subject to repeal by reason of this article, but if any private person have tres[passed] [44] against the said article he may be brought to answer and punished for his trespass if he be found . . . .

May it please our lord the king and the noble lords of parliament to know and take heed to . . . of the great dearness of herring that has now been in this year is because the fair of Scarborough [45] and of Whitby [46] failed as is well known to the people of those parts . . . the coasts between . . . Yarmouth they have taken no herring this year . . . for there were no herring to account of . . . not at Yarmouth and there [47] . . . not hung the fourth part of herring . . . hung there [48] . . . and moreover a thousand last [49] of herring in the recent fishery was sold . . . this year among nine mariners, so that because of good . . . the said dearness . . . stopped by reason of the said charter of Yarmouth.

[*Endorsed:*] Parliament held at Westminster the . . . Saint Hilary the year of our lord the king [50] . . . .

D REPLICATION OF LOWESTOFT

Herring

Replication made on behalf of the commonalty of Suffolk to the answer . . . .

The first answer that they have given is not an answer to justify the maintenance of their charter contrary to the statute, for it is agreed that

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the subsidy voted in 1377, it was, by way of partial exemption, rated for two fifteenths only ?

[43] See n. 24, supra.

[44] Conjectural.

[45] On the fourteenth-century borough seal "Scardeburg." The fair of Scarborough was granted by Henry III in 1253 and was from 15 August to 29 September. J. B. Baker, *Hist. of Scarborough* (1882), p. 315.

[46] The fair of Whitby was held on the 25th August, the Feast of the Translation of St. Hilda.

[47] Conjectural.

[48] "Arrived at the fish-office . . . the fish, after being sufficiently salted, remain on a floor for twenty-four hours, if intended to be slightly cured, or for ten days if intended for the foreign market; they are then washed in large vats filled with fresh water; spits about four feet long and of the thickness of a man's thumb are passed through their heads or gills . . . and they are then hung up in tiers to the top of the building, which is usually forty or fifty feet high . . . the first tier being about seven feet from the ground. Fires from oak billet are then kindled under them and are continued day and night, with slight intermissions to allow the fat and oil to drop, until the fish are sufficiently cured, which, if they be intended for the foreign market, is at the end of fourteen days, but if for home consumption, three or four days will suffice, whilst for immediate eating twenty-four hours will be enough." Palmer, p. 309.

[49] "The Hundred of Herring shall be accounted by six Score, and the Last by ten Thousand." Ordinance of Herrings, 1357. *Stats. of Realm* i, 354.

[50] See Introduction, p. xciv, supra.

[51] Struck through.

vendre et achatre haranges et autre marchandises a graunt Jernemuthe duraunt le feire uncore par mesme la chartre ils sont . . . poient vendre nachatre en la Rode de Kirkle nen Lowystoft ne par aillours deins sept lieux entour le [dict ?] Jernemuthe et issint en celle degre expres[sement] encontre le dit estatut qe voet etc. et toute le remenant compris en lour responce nest mye . . .

Le seconde respounce nest pas respounce pour assouder le meschief de la [chartre] car couient qe gentz ne sont pas artez de . . . er a Jernemuthe . . . ils sont defende . . . [ve]ndre et achatre deinz sept lieux entour Jernemuthe. Et par tant si nief ou autre vessel arrive al Rode de Kirkele quele est deins sept lieux il faut daler a Jernemuthe ou outrement ils ne poient estre venduz. Et partant les vitailles serront piz quele serroit trop graunt damage et meschief a toute le commune et quele ne serroit mye suffert par estatut ne par chartre pour nulle singuler profit.

Le tirce respounce ils ne ount pas pleynement respondu car ils nount pas allegge qe ceux qi feuront par[ties] al dit acord feuront mesnez en responce par processe de ley et par tant la chartre grantez encontre lacord le quele est de record et encontre la ley come desuis est dit par force denquerres ou de office [52] as queux no les parties nauoient lour respounce il semble qil est repelable.

Quant a la quart respounce lour primere chartre fuit repelle sollempnement par bone deliberacion de touz les seignours et communes en pleyn parlement [53] come desus est dit, et le nouelle chartre ne fuit mye grante par si grant auys ne deliberacion [54] quele est repellable e de droit doit estre repelez si auant come lautre fuit par la reson desuis monstre.

Quant a le quint article lour respounce nest pas respounce ne reson come il semble qe ce qest pris en la meer et arriuez sur la terre serroy restreint destre venduz par ascunes singulers persones encontre commune profit, eins quant il est arriue sur les costes il serroit commune a touz pour le lour donant a ceux qi ount pris; et a ce qest allegge qe il serroit apert forstallerie, nest pas issint, eins serroit commune profit, et si ascune tiele forstallerie fuisse il serroit chastize et puny par le commune ley de la terre pour son singuler fait et nemye par tant toute le commune profit destourbe, mes en tant qils sont restreintz de vendre et achatre lour vitailles aillours qen Jernemuthe ce est mescheifous et damageous a toute le puple car ils de Jernemuthe mettent pris et chier a lour volunte.[55]

Quant a le sisme article ils nount pas responduz de verite, qar la ou ils ount allege qe les pessoners pount vendre lour haranges a lour [volunte] lour chartre est a contrarie come desus est dit qe voet qils ne vendront mye deins

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[52] "Office doth signifie an Inquisition made to the king's use of any thing by Virtue of his Office who enquireth." (Cowel, *Interpr.*) The argument appears to be that there had been an arbitrary misuse of prerogative.

[53] It would appear that the charter was revoked in 1376 by order in council, which was "with the assent of the prelates, earls, barons, nobles, and other great men," and there is no such statute enrolled among the Statutes of the Realm. There was,

such within are free to sell and buy herrings and other merchandise at Great Yarmouth during the fair, yet by the same charter they are . . . can [not] sell nor buy in the Road of Kirkley nor Lowestoft, nor elsewhere within seven leagues round the said Yarmouth and so in that degree expressly contrary to the said statute which wills, etc. and all the rest contained in their answer is not . . .

The second answer is not an answer to abate the mischief of the [charter], for it is agreed that people are not compelled to . . . at Yarmouth . . . are forbidden . . . to sell and buy within seven leagues round Yarmouth, and thereby if a ship or other vessel arrive at the Road of Kirkley which is within seven leagues it must go to Yarmouth, or otherwise they cannot be sold, and thereby the victuals will be worse, which would be too great damage and mischief to all the commonalty and which should never be suffered by statute nor by charter for any private profit.

The third answer they have not fully answered, for they have not alleged that those who were parties to the said agreement were brought to answer by process of law and thereby the charter [was] granted contrary to the agreement, the which is of record and contrary to the law as is above said by force of inquiries or of office [52] to which . . . the parties did not have their answer it seems that it should be revoked.

As to the fourth answer, their first charter was revoked in solemn form by good deliberation of all the lords and commons in full parliament [53] as is abovesaid, and the new charter was never granted by so great advice nor deliberation [54] [so] that it is revocable [and] by right ought to be revoked just as before the other was for the reason shewn above.

As to the fifth article their answer is not an answer nor a reason, as it seems that that which is taken at sea and landed ashore should be restrained from being sold by any private persons against the common profit until that it is landed upon the beach [but] it should be common to all for their own good, the takers being paid; and as to the allegation that it would be open forestalling, it is not so, but it would be common profit, and if there were any such forestalling, it would be chastised and punished by the common law of the land for that particular act and the common profit as a whole not thereby interfered with; but so far as they are restrained from selling and buying their victuals elsewhere than in Yarmouth, this is mischievous and damnifies the whole people, for they of Yarmouth fix the price and make it clear at their will.[55]

As to the sixth article, they have not replied truthfully, for whereas they have alleged that the fishermen are able to sell their herring at their [will] . . . their charter is to the contrary, as is above said, which wills

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therefore, substance in the Yarmouth contention. See Gillingwater, p. 128, n.

[54] There is truth in this, if it be the case that the concession of the charter in 1378, though agreeable to the report of the royal commissioners, was contrary to the feeling of the house of commons: see Introduction, p. xc, supra.

[55] See n. 33, supra.

les septz lieux etc.; et a ce qest allegge qe les niefs p[urroient venir] deins le port de Jernemuthe en quele part qe la vente soit ce ne poet estre fait en grant tempeste come ils diont mesmes, ne estre amesnez par tiels vesselx appelez lithers nient le plus sanz grant et outrageous perile; et couient qils purroient estre amesnez par tiels vesseulx ce serroit a tresgrandes . . . damages et trauailles des mariners et marchantz et autres communes et grant destourbance as pessoners.

Quant a le septisme article les manirers [*sic*] sont a lour volonte daler a lour volonte ou lour haranges etc. . . . le pleynte . . . le pleynte est qe les maryners sont constreintz qils ne poent vendre lour haranges as autres qe a ceux de Jerne[muthe] . . . qils soient a lour voluntee daler etc. en quele lieu quant le vent lour sert etc. ce ne prove pas qils ne sont pas constreintz . . . ils v[ign]ent en celle partie ils sont constreintz come purra estre prove pour lour responce mesme e confession.

Quant a le ocptisme article ils nount riens allegge pour assoudre le meschief . . . qar la ou le haranges . . . manche en la dite Rode ceux de Jernemuthe les preignont maugre lour . . . a lour volunte . . . .

[Quant a le neufisme article] . . . Jernemuthe . . . parties de Suffolk dioms qils nount riens allegge pour assoudre le meschief pour . . . est . . . plusours . . . de Suffolk come pour autres communes de la [real]me, nous prions par tant qils soient . . . autres communes . . . cuntees la ou il[s] dient qe pedlers et autres vitaillers purroient vener a Jernemuthe a la achattre . . . lieus et . . . nulle desese . . . la dions nous qe lour vener illeoqes est a grant costage et deseese ouesqe ce ils achattent . . . qils ne dussent en les meyns ditz mariners a grant meschief du pais parmye toute envyron et ce sont les da[mages] . . . par quei . . . Roy et son conseil.

Quant a la disme article la ou il diont qe haranges venduz en le dite Rode et les vesselx hors des queux le . . . [haranges] . . . [est] venduz sont forfeta[bles] il semble qe ce serroit euidement encontre le dit estatut qe voet qe chescun liege du roialme serroit frank de v[endre][56] . . . assigner expressement cause de forfaiture, et issint tanke lour fait ou les gentz armez pour . . . manere de droiture, et par tant lour chartre grante au contrarie repellable. Et a ce qils dient outre de granter une feire a l . . . serroit damageous et grevous a Jernemuthe; la diont ils qils demandent nulle feire eins demandent qils . . . vendre et achatre . . . ordene qe chescun liege du roiaume purra solonc la forme et le . . . auxint nous demandoms la custume de la Rode qe . . . unqes appurtenont a le dite ville de Jernemuthe deuant lour nouelle chartre qe fuit fait lan del aiel qarant et sisme;[57] pour quele custume auoir nous donerons . . . vint liures par an[58] qe serroit grant encres a nostre seignour le Roy et a grant amendement a toute le roialme.

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[56] 9 Ed. III, c. 1 (1335).

[57] This refers to the annexation of Kirkley Road to Yarmouth by the charter dated 22 Aug. 46 Ed. III (1372). See Introduction, p. lxxxix, supra.

[58] See n. 21, supra.

them never to sell within the seven leagues, etc.; and as to the allegation that the ships could come into the port of Yarmouth in whatever quarter the wind may be, that cannot be done in a great storm, as they themselves say, nor can they be brought by such vessels as are called lighters any the more without great and excessive peril, and it is agreed that [if] they could be brought by such vessels, it would be with very great losses and toils on the part of the mariners and merchants and other commons and great disturbance to the fishermen.

As to the seventh article the mariners are free to go at their will with their herrings, etc. . . the complaint, the complaint is that the mariners are constrained so that they cannot sell their herrings to others than to those of Yarmouth . . . that they are free to go, etc., in which place when the wind serves them, etc. This does not prove that they are not constrained . . . [when] they come into that part they are constrained as will be proved by their own answer and confession.

As to the eighth article they have alleged nothing to abate the mischief . . . for whereas the herrings . . . channel in the said Road those of Yarmouth take them despite their . . . at their will . . . .

As to the ninth article . . . Yarmouth . . . parts of Suffolk we say that they have alleged nothing to abate the mischief for . . . is . . . many of Suffolk as for other commons of the realm, we pray therefore that they may be . . . other commons . . . counties whereas they say that pedlars and other victuallers could come to Yarmouth to buy it . . . places and . . . no inconvenience . . . we say that for them to come there is at great cost and inconvenience except that they buy . . . that they ought not in the hands of the said mariners to the great harm of the country with the whole neighbourhood and these are the losses . . . by which . . . king and his council.

As to the tenth article whereas they say that herrings sold in the said Road and the vessels out of which the . . . [herrings] . . . [is] sold are forfeitable, it seems that this would be evidently contrary to the said statute which wills that every liege of the realm should be free to sell [56] . . . to assign expressly a cause of forfeiture, and thus until their act with the armed men for . . . manner of right, and thereby their charter granted on contrary terms [is] revocable. And as to their statement that besides granting a fair to . . . would be dangerous and burdensome to Yarmouth, they say that they ask no fair but ask that they . . . sell and buy . . . ordains that every liegeman of the realm shall be able according to the form and the . . . also we ask the custom of the Road that . . . ever belonging to the said town of Yarmouth before their new charter which was made in the forty-sixth year of the grandfather [of the king]; [57] to have which custom we will give . . . twenty pounds yearly [58] which would be a great augmentation to our lord the king and to the great improvement of the whole realm.

Quant a le unzime article la ou il dient qe une singuler persone en trespas fuit mesne en respounce . . . et encontre commune ley de terre . . . en Suffolk serroit mie pour gentz de Norffolk en le dite Countee [59] . . . commune ley repellable, par quey . . . toutes cestes matieres pour lour conissance demesne . . . soit repelle come ley et reson . . . et ent tresgrant oeure de charite p[our] les communes . . . .

CONFESSIONS OF WILLIAM CHAMBERLAIN AND JOHN MARTIN [1]

A

1383 Ricardus, Dei gracia Rex Anglie et Francie et Dominus Hibernie, vicecomiti Essex, salutem. Cum per inquisicionem per Johannem Clerk [2] de Ewell, nuper escaetorem nostrum in comitatu predicto, de mandato nostro captam et in cancellariam nostram retornatam sit compertum quod Henricus de la Newelonde tenuit die quo obiit in dominico suo ut de feodo manerium de Newelonde [3] cum pertinenciis in parochia de Writle [4] in comitatu predicto, et quod manerium predictum ten[etur] de nobis in capite ut de Honore Bolonie per seruicium unius feodi militis, et quod predictus Henricus obiit quinto die Maii anno regni nostri tercio, quodque Ricardus, filius ejusdem Henrici est heres ejus propinquior et infra etatem; jamque Willelmus de Clopton,[5] miles, nobis supplicauerit ut cum idem Henricus diu ante mortem suam per cartam suam predictum Willelmum et Willelmum Chamberleyn [6] de Wambergge,[7] capellanum, de manerio predicto, per nomen manerii de Newelonde juxta Writle cum pertinenciis, habendum sibi et heredibus suis imperpetuum foffasset, qui quidem Willelmus Chamberleyn postea per scriptum suum totum jus et clameum que habuit seu habere potuit in eodem manerio predicto Willelmo de Clopton remisit relaxauit et imperpetuum quietum clamauit, ac idem Willelmus de Clopton pretextu feoffamenti et quieteclamancie predictorum in pacifica possessione et seisina ejusdem manerii fuisset quousque tam colore inquisicionis predicte quam litterarum nostrarum patencium per quas manerium predictum cum pertinenciis Willelmo de Wauton,[8] militi, sub certa forma habendum nuper commisimus ammotus fuisset minus juste absque hoc quod predictus Henricus aliquem statum habuit in eodem manerio predicto die quo obiit

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[59] See n. 24, supra.

[1] *Parliamentary and Council Proceedings* (Chancery), file 47, no. 17; 3 membranes, A the king's writ, B and C memoranda of proceedings in Chancery.

[2] Escheator of Essex, Hertford, and Surrey, 1380–85. *Cal. Pat.* 3 Richard II, 330, &c.

[3] A manor once held by King Harold, in Domesday Book by Eustace of Boulogne, and located in the hundred of Chelmesford. In 1349 it was held by Margaret Newland and after her decease, by this Henry her son, who held it by the service of one knight's fief. Upon his death, which occurred 5 May, 1380, he left one third of it to Agnes his wife, and two thirds to his son Richard. *Cal. Inq., p. m.*, iii, 80; and P. Morant, *Hist. and Antiq. of Essex* (1768), ii, 74.

[4] or Writtle, a town and parish two and one-half miles southwest of Chelmesford.

[5] Member of an ancient family of the county identified with the manor of Newnham in Ashdon, which had been pur-

As to the eleventh article, whereas they say that a private person offending was brought to answer . . . and contrary to the common law of the land . . . in Suffolk would not be by the people of Norfolk in the said county[59] . . . common law revocable, whereby . . . all these matters await their cogniznance . . . be revoked as law and reason . . . and thereupon a very great work of charity . . . [for] the commonalties . . . .

CONFESSIONS OF WILLIAM CHAMBERLAIN AND JOHN MARTIN[1]

A

1383 Richard, by the grace of God king of England and France and lord of Ireland, to the sheriff of Essex greeting. Whereas by inquisition taken according to our order by John Clerk[2] of Ewell, lately our escheator in the aforesaid county, and returned into our chancery, it has been found that Henry of Newland on the day that he died held in his demesne as of fee the manor of Newland[3] with its appurtenances in the parish of Writle[4] in the aforesaid county, and that the aforesaid manor is held of us in chief as of the Honour of Boulogne by the service of one knight's fee, and that the aforesaid Henry died on the fifth of May in the third year of our reign, and that Richard son of the said Henry is his nearest heir and under age; and now that William Clopton,[5] knight, has made supplication to us that whereas the said Henry long before his death had by his charter enfeoffed the aforesaid William and William Chamberlain[6] of Wanborough,[7] chaplain, of the aforesaid manor, by name of the manor of Newland near Writle, together with appurtenances, to hold to him and his heirs forever, and this William Chamberlain afterwards by his writing demised, released and quit-claimed forever all right and title that he had or could have in this aforementioned manor to the aforesaid William Clopton, and the said William Clopton by virtue of the aforesaid enfeoffment and quit-claim had been in peaceful possession and seizin of the said manor until by colour of the aforesaid inquisition as well as of our letters patent recently assigning the aforesaid manor with appurtenances to William Wauton,[8] knight, to hold on certain terms, he had been removed unjustly and without the aforesaid Henry having any estate in the same said manor on the day that

chased by Sir William Clopton in 1346 (Morant, ii, 321, 525, 540). The present Sir William is apparently a nephew of the former. He was also lord of the manor of Dalham in Suffolk. (*Cal. Close*, 3 Richard II, 309).

[6] Mentioned in *Cal. Close*, 2 Richard II, 241, 248.

[7] A small parish and manor between Guildford and Farnham in Surrey.

[8] Wawton or Walton, another prominent name in the county, was a commissioner *de walliis*, a commissioner of array and a justice of the peace in Essex. (*Cal. Pat. Rolls.*) In 1383 he was granted an exemption from public service (Ibid. 7 Richard II, 333), but he still served on commissions. He held for a time the manor of West Thurrock and died in possession of three manors, namely, Willinghall, Southwokyngdon, and Caureth. (Morant, i, 91; *Cal. Inq., p. m.*, iii, 178).

prout per predictam inquisicionem supponitur, velimus litteras nostras predictas reuocari et manerium predictum cum pertinenciis in manum nostram resumi et illud prefato Willelmo de Clopton una cum exitibus inde a tempore mortis predicti Henrici perceptis restitui et liberari jubere: Nos volentes in hac parte fieri quod est justum precipimus tibi sicut alias precepimus quod scire facias prefato Willelmo de Wauton quod sit coram nobis in cancellaria nostra a die Pasche proximo futuro in unum mensem ubicumque tunc fuerit ad ostendendum si quid pro nobis aut se ipso habeat vel dicere sciat quare littere nostre predicte reuocari et manerium predictum cum pertinenciis in manum nostram resumi et eidem Willelmo de Clopton una cum exitibus predictis restitui et liberari non debeant, et ad faciendum ulterius et recipiendum quod curia nostra considerauerit in hac parte. Et habeas ibi nomina illorum per quos ei scire feceris et hoc breue. Teste me ipso apud Westmonasterium xx die Februarii anno regni nostri sexto.[9] Burton'.

[*Endorsed:* —] Scire feci Willelmo de Wauton militi infranominato quod sit coram domino Rege in cancellaria sua ad diem infra contentum ubicumque tunc fuerit in Anglia facturus et ostensurus quod istud breue requirit per Robertum Rigge [10] et Ricardum Johan.

Galfridus Dersham, vicecomes.

Willelmus de Clopton, chiualer, pronit loco suo Edmundum Heryng [11] et Jacobum de Billyngford,[12] clericum, conjunctim et diuisim ad lucrandum vel perdendum in loquela infrascripta.

Willelmus de Wauton infrascriptus ponit loco suo Willelmum de Horbury,[13] clericum, ad lucrandum vel perdendum in loquela infrascripta.

B

Fait aremembrer qe le xxiij jour Dapril lan du regne le Roi Richard second sisme vient en la chancellerie nostre dit seignur le Roi un Sir William Chaumberleyn, chapellein, en presence del Chanceller [14] le Roi, Monsieur leuesqe de Nicol,[15] les serjeantz du Roi et plusours autres sibien Meistres del chancellerie [16] come autres de conseil le Roi illeoqes esteant, et la confessa coment Henri Newelande le samady proschein apres le fest del Ascension [17] lan tierce nostre dit seignur le Roi murust seizez en son demesne come de [fee] de le manoir de Newelande oue les appurtenantz en le counte de Essex. Et qe entour un quinzein apres la mort du dit Henri un Sire William Clopton, chiualer, fist par grant manace et duresce le dit Sir

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[9] Such a writ of *scire facias* was a regular remedy in cases of the repeal of letters patent. Blackstone, book iii, § 261.

[10] A clerk mentioned in *Cal. Pat.*, 4 Richard II, 608.

[11] A clerk in the chancery named in 1394 as attorney for another party in Essex. *Cal. Pat.*, 18 Richard II, 506; *Rot. Parl.* iii, 178.

[12] Another clerk of the chancery mentioned in 1385 as the king's servant appointed to the custody of a cottage (*Cal. Pat.*, 573). He gained the presentation of several churches in Norfolk and Suffolk,

he died, as is suggested by the aforesaid inquisition; we should will our aforesaid letters to be revoked and the aforesaid manor with appurtenances to be resumed into our hand and to be restored and delivered to the aforesaid William Clopton together with the issues received therefrom since the time of the death of the aforesaid Henry; We wishing justice to be done in the matter instruct you as before to inform the aforesaid William Wauton that he is to be before us in our chancery, wherever it shall then be one month from next Easter, to show whether he has anything (to say) for us or for himself or can say wherefore our aforesaid letters ought not to be revoked and the aforesaid manor with appurtenances resumed into our hand and restored and delivered to the said William Clopton together with the aforesaid issues, and to do and receive further whatever our court shall determine in the matter. And do you have there the names of those through whom you shall have informed him and (also) this writ. Witness ourself at Westminster the 20th day of February in the sixth year of our reign.[9] Burton.

[*Endorsed:*—] I have informed the above named William Wauton, knight, that he is to be before the lord the king in his chancery wherever it shall be in England, on the day herein named, to do and show what this writ requires, by (the agency of) Robert Rigge[10] and Richard John.

Geoffrey Dersham, sheriff.

William Clopton, knight, names in his place Edmund Heryng[11] and James Billyngford,[12] clerk, jointly and separately, to gain or lose in the aforesaid plea.

William Wauton mentioned above puts in his place William Horbury,[13] clerk, to gain or lose in the aforesaid plea.

B

Be it remembered that on the 23d day of April in the sixth year of Richard II, there came into the chancery of our said lord the king one William Chamberlain, chaplain, in the presence of the king's chancellor,[14] the lord bishop of Lincoln,[15] the king's serjeants and many others, as well masters in chancery[16] as others of the king's council, there present. And there he confessed how on the Saturday after the feast of the Ascension[17] in the third year of our said lord the king, Henry Newland died seized in his demesne of the manor of Newland as of fee, together with the appurtenances in the county of Essex. And (he says) that about a fortnight after the death of the said Henry, a certain Sir William Clopton, knight, by

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and a prebend in Wells Cathedral. He became chief clerk in the chancery in 1396 (*Cal. Pat.* 711), and afterwards clerk of the crown in chancery. He was justice of the peace in Norfolk and Hertfordshire in 1406. His death occurred in 1409.

[13] Also a clerk in the chancery, presented to several churches. *Cal. Pat. Rolls.*

[14] Michael de la Pole, 1383–86.

[15] John of Bockingham, 1362–98.

[16] The complete number of masters in chancery was twelve.

[17] 5 March, 1380.

William Chaumberlein jurer a lui en tout qe lui vorroit charger, et lui tenir conseil; et ce fait venerent a Loundres et la par couyn entre eux forgerent un faux testament en Lumbardstrete a un appelle Doncastre, escryueyn, par serment de un Johan Palmer et Johan Derby, valeitz a le dit Sire William Clopton, et issint le dit Doncastre fit le testament, fesant mension en ycel qe le dit Henri auoit venduz a ditz Sir William Clopton et William Chaumberleyn le dit manoir pur un certein somme dargent, et sur ceo a mesme le temps les ditz William et William en Gressechirchestrete en lour hostel firent ent un chartre en fee simple acordant a le testament, portant date auant la murance du dit Henri, e fuist escript par les mains du dit Johan Palmer son valeit, et la note du dit chartre est en papire [18] et remayne unqore en diuerses peces [oue] le dit Sir William Chaumberleyn, et qe enselerent le dit testament oue un seal assigné oue un H., quele seal ils achaterent a Poulesgate, et rien qe le dit William Chaumberlein sciet ils enselerent mesme la chartre oue meisme le seal, et ceo fait getterent le dit seal en un fosse pres lour hostiel: et en cas qe la dit chartre seit seale oue ascun autre seal il estoit forge apres en labsence du dit Sir William Chaumberlein, et qe le dit Sire William Clopton ad et auoit treis jours apres la mort du dit Henri son seal de ses armes tout dis en sa gard: et puis apres cestez chosez acompliez et imaginez, ils ensemble duissent auoir ale a leschetour lors de Essex ouesqe la dit faux chartre pur auoir fait un office acordant a la dit chartre, en deceit et desheretisoun del heire du dit Henri, et pur excluder le Roi de son droit, le dit Sir William Chaumberleyn feina lui malades a Brendewode,[19] et issint ne ala auant pur rien de ceo faire. Et puis lui remorda en sa concience de la dite tresorrible et grante fauxtee et deceit, vient a Sire Symond Sudbury [20] nadgairs Archeuesqe de Cantebirs, adunqes Chanceller, et lui ent confessa les choses auantditz, sur quele lui estoit done en penance de aler a dit Sire William de Clopton de cesser de la fauxtee, et outre daler al esglise ou le dit Henri est seuelez, et la confesser la dite fauxtee; [21] coment il venist a dit esglise et la confessa en un solempne jour festyval deuant toutz les parochiens les fauxtees et [deceitz] auanditz. Et puis apres le dit Sire William Clopton voleit auoir fait le dit Sire William Chaumberleyn relesser tout le droit qil auoit en le dit manoir, quele chose le dit Sire William Clopton ne unqes fist.

C

Fait a remembrer qe le xiij jour de Juyn lan du regne le Roi qore est sisme en la chancellerie nostre dit seignur le Roi en presence del Chanceller,

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[18] Paper was in use in England from the beginning of the 14th century. It was made of linen, strong and tough, and first used for literary purposes and domestic registers. J. E. T. Rogers, *Hist. of Agriculture and Prices*, i, 644.

[19] Parish and market town 6 miles northeast of Romford in Chelmesford.

[20] Chancellor, 1379–81.

[21] Public offences in the Church are visited with public penance, and reconciliation is refused until public penance is undergone. Reichel, *Manual of Canon Law*, i, 168. The same thing continues in John Knox, *Book of Discipline*, ed. C. Lennox (1905), p. 397.

great threatening and duress forced the said William Chamberlain to swear to him in regard to everything that he wished to impose, and to keep his counsel. Having done this they came to London and there in Lombard Street at (the house of) one named Doncaster, a scribe, on oaths of one John Palmer and John Derby, servants of the said Sir William Clopton, by covin between them they forged a false testament; and thus the said Doncaster drew up the testament, mentioning in it that the said Henry had sold the said manor to the said Sir William Clopton and William Chamberlain for a certain sum of money, while at the same time the said William and William at their house in Gracechurch Street made out a charter to this effect in fee simple according to the testament, dating it before the death of the said Henry; this was written by the hands of the said John Palmer, Sir William's servant, and the note of the said charter is on paper[18] which still remains in several pieces [in the hands of] the said Sir William Chamberlain; and (he says) that they sealed the said testament with a seal signed with an *H.*, which they had bought at Paul's Gate, and for all the said William Chamberlain knows they sealed the same charter with the same seal, and having done this they threw the said seal into a ditch near their house; and in case the said charter was sealed with any other seal this was forged afterwards in the absence of the said Sir William Chamberlain, and (he says) that the said Sir William Clopton three days after the death of the said Henry had and still has Henry's seal with his arms in his keeping; then after these things had been contrived and accomplished, they were to have gone with the said false charter to the escheator of that time in Essex in order to secure his offices in accordance with the said charter, in deceit and disherison of the heir of the said Henry and to the exclusion of the king's right. And the said William Chamberlain feigned sickness at Brentwood,[19] and took no further part in the proceedings. And then he felt remorse in his conscience for the great and very horrible fraud and deception that has been told, and going to Sir Simon Sudbury[20] the late archbishop of Canterbury, then chancellor, he confessed the things already described; whereupon it was laid upon him as penance to go to the said Sir William Clopton, to withdraw from the fraud, and further to go to the church where the said Henry is buried, and there to confess the said fraud; (and he tells) how he went to the said church and there on a solemn feast day before all the parishioners he confessed the aforesaid frauds and deceptions.[21] Afterwards the said Sir William Clopton would have had the said Sir William Chamberlain release all the right that he had in the said manor, but this the said Sir William Clopton never did.

C

Be it remembered that on the 13th day of June in the sixth year of the reign of the present king, there came into the chancery of our said lord the

le Chief Justice du Roi,[22] Monsieur Richard Abburbury, Meistres del chancellerie et plusours autres du conseil du Roi vient un Johan Martyn de petit Thrillowe [23] et confessa, jurez sur seintz Ewangelistz a dire la veritee par ses seermentz, coment il fist un chartre de feoffement de fee simple de par Henri Newelande par estimacion entour un quinzaine deuant sa moriance a Monsieur William Clopton de le manoir de Newelande en le countee de Essex a auoir a lui e ses heirs a touz jours, et auxi le dit Johan Martyn fist amesme le temps un lettre dattorne de par le dit Sire William en le noun de Johan Palmer pur receuier seisin en le noun du dit Sire William Clopton, et le dit Sir William Clopton bailla mesme le jour en le court une chartre et un lettre de attorne de la mater auantdite, disant qe le dit Johan Martyn les fist par ses mayns, et le dit Johan regardant les dites chartre et lettre les ad outrement refusez et deniez, disant qe unqes ne les vist deuant cest jour.[24]

TAYLORS *v.* BREMBRE [1]

1386 Item les ditz Suppliantz soy pleignont vers Nichol Brembre [2] de ceo qil ouesqe les autres ses acomplices accrocha sur luy roiale poair de ceo qe par la ou une chartre par le progenitour nostre seignur le Roy feust grante a le Mestier des Taillours de Londres come par la copie de mesme la chartre pleinement fait mencion la quele copie si ensuit: Edwardus dei gracia Rex Anglie et Francie et Dominus Hibernie Omnibus ad quos presentes litere peruenerint salutem. Inspeximus [3] literas patentes quas nos nuper sub sigillo nostro quo tunc utebamur in Anglia fieri fecimus in hec verba: Edwardus dei gracia Rex Anglie Dominus Hibernie et Dux Aquitanie Omnibus ad quos presentes litere peruenerint salutem. Supplicarunt nobis Cissores et Armurarii linearum [4] armaturarum Ciuitatis nostre London' per peticionem suam coram nobis et consilio nostro [5] in presenti parliamento [6] nostro exhibitam quod cum ipsi et antecessores sui de eisdem mesteris in Ciuitate predicta semper hactenus a tempore quo non extat memoria Gildam suam infra eandem Ciuitatem semel in anno habere et tenere et in eadem Gilda mesteras suas regulare et statum seruientum suorum de eisdem mesteris ordinare et defectus eorundem corrigere et emendare pro communi utilitate tam hominum ejusdem Ciuitatis quam ad eandem con-

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[22] Sir Robert Tressilian, 1387–88.

[23] or Thurlow, Great & Little, a manor in Suffolk 3½ miles north of Haverhill.

[24] Whether any punishment was meted out to Clopton, the principal offender, does not appear. At all events he was soon in good legal standing, for in 1385 he was one of the commissioners to hear an appeal from the court of chivalry. *Cal. Pat. Rolls*, 596.

[1] *Parliamentary Proceedings* (Chancery), file 10, no. 3.

[2] Mayor, 1377–78, 1383–84; knighted, 1381; a member of the king's council, 1386; hanged at Tyburn, 1388. A strong partisan of Richard II. See *Dict. Nat. Biog.* and Introd., p. xcvii, supra.

[3] "An Inspeximus" or "Letters-Patent" so-called . . . is the same with Exemplification which begins thus: "Rex

king one John Martin of Little Thrillowe,[23] in the presence of the chancellor, the king's chief justice,[22] Master Richard Abberbury, the masters in chancery, and many others of the king's council; and having been sworn by his oath upon the holy gospels to tell the truth, he confessed how he drew up a charter of enfeoffment in fee simple on the part of Henry Newland about a fortnight, he thought, before his death (granting) to Master William Clopton the manor of Newland in the county of Essex, for himself and his heirs to hold forever; moreover, the said John Martin at the same time drew up in behalf of the said Sir William a letter of attorney naming John Palmer (with power) to take seisin in the name of the said Sir William Clopton; and on the same day the said Sir William Clopton brought to court a charter and a letter of attorney in regard to the aforesaid matter, declaring that the said John Martin drew them with his own hands; but the said John having looked at the said charter and letter repudiated and denied them entirely, declaring that he had never seen them before.[24]

TAYLORS *v.* BREMBRE[1]

1386 Also the said suppliants complain against Nicholas Brembre[2] that with the others his accomplices he took upon himself royal authority in that whereas a charter was granted by the progenitor of our lord the king to the mistery of the Taylors of London as by the copy of the same the charter fully makes mention, the which copy follows: "Edward by the grace of God king of England and France and lord of Ireland to all to whom the present letters shall come Greeting. We have inspected[3] the letters patent which we lately under the seal then used by us in England caused to be made in these words: 'Edward by the grace of God king of England, lord of Ireland, and duke of Aquitaine to all to whom the present letters shall come Greeting. We have been supplicated by the Taylors and Linen Armourers[4] of our city of London through a petition exhibited before us and our council[5] in our present parliament[6] that whereas they and their predecessors belonging to the same misteries in the City aforesaid have always hitherto since time immemorial been accustomed once in the year to have and to hold their gild within the same City and in the same gild to make rules for their misteries and to order the condition of their servants belonging to the same misteries and to correct and amend the shortcomings of the same for the common weal as well of the men of the same City as of

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omnibus, etc., Inspeximus," etc. Cowel, *Interpreter*, s. v.

[4] Linen-armourers. "All which did not fall within the Smith's province came to the Linen Armourers." (J. Hewitt, *Antient Armour;* C. M. Clode, *Memorials of the Merchant Taylor's Company* [1875], p. 2, n. 3.) According to Stow, Edward I in 1300 granted the gild license to adopt the name of "Taylors and Linen Armourers of the fraternity of St. John the Baptist" (ib. p. 1). This license is not preserved in the *Patent Rolls*.

[5] For this form see Lombards *v.* Mercers, p. 44, n.

[6] See Introd., p. xcviii, supra.

fluencium consueuissent et jam per aliquod tempus omnes illi qui de mesteris illis se esse dixerint tam extranei quam alii shopas in Ciuitate predicta pro eorum voluntate ceperint et mesteris illis usi fuerint per hujusmodi extraneos irregulatos et de eorum defectibus non correctos dampna quamplurima pluribus tam de Ciuitate illa quam aliis pluries euenerint in scandalum proborum hominum de eisdem mesteris Velimus Gildam predictam approbare et eam hominibus de mesteris predictis in dicta Ciuitate commorantibus confirmare sibi et successoribus suis imperpetuum obtinendam Nos eorum supplicacioni in hac parte annuentes predictam Gildam tenore presencium acceptamus et approbamus. Volentes et concedentes pro nobis et heredibus nostris quod homines de mesteris predictis in Ciuitate predicta et successores sui Gildam suam semel in anno prout antiquitus fieri consueuit habere et tenere [7] et in ea mesteras suas ordinare et regulare et defectus seruientum suorum predictorum per visum Majoris Ciuitatis predicte [8] qui pro tempore fuerit vel alicujus quem loco suo ad hoc deputauerit et per probiores et magis sufficientes homines de mesteris illis corrigere et emendare possint prout ad majorem utilitatem Communitatis populi nostri viderint faciendum. Et quod nullus infra libertatem Ciuitatis predicte mensam vel shopam de mesteris illis teneat nisi sit de libertate Ciuitatis illius Nec aliquis ad libertatem illam pro mesteris illis admittatur nisi per probos et legales homines de eisdem mesteris testificetur quod bonus fidelis et ydoneus sit pro eisdem. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste me ipso apud Westmonasterium x die Marcii anno regni nostro primo.[9] Nos autem tenorem literarum nostrarum predictarum sub sigillo quo nunc utimur in Anglia [10] duximus exemplificandum.[11] In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste me ipso apud Langle [12] vj die Februarii anno regni nostri Anglie quinto decimo [13] regni vero nostri Francie secundo.[14] La quele chartre le dit Sieur Nichol Brembre prist hors del possession du dit mestier encontre la corone nostre seignur le Roy et

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[7] The license of Edward I (n. 4, supra) authorized them to choose their Masters and Workers on the midsummer day yearly. Clode, p. 2.

[8] Presumably this was Brembre's warrant for interference. An example is given by Clode of the date of 1371, in which the mayor and aldermen sanction regulative ordinances submitted to them by the company. Ib. p. 513.

[9] 1327. Clode wrongly dates this charter 1326. Ib. pp. 2, 189.

[10] According to the *Catalogue of Photographs of Seals in the British Museum* (1872, pt. vii, 959), there were two great seals, quartering the arms of France, between 1340 and 1374, the first being in use from 8 February, 1340 to 20 June, 1340, and the second from 21 June, 1340 to 1374. This statement does not seem altogether consistent with the evidence. The announcement of the change of style, with notice to the sheriffs to publish and exhibit impressions of the new seal, is dated 21 February, 14 Ed. III, and is to be found printed in *Rot. Parl.* ii, 450, cf. *Close Rolls*, 14 Ed. III, pt. 1, p. 457. "A newly made great seal which he (the king) had brought to England from across the sea" was delivered by the king himself on 1 March, 1340, to Sir John de Sancto Paulo, keeper of the Chancery Rolls, who surrendered "another great seal deputed in his custody during the king's absence

those resorting together to the same and now during some time all those, both strangers and others, who have claimed to belong to those misteries have at their will taken shops in the City aforesaid and have practised those misteries by the hands of such unruled strangers and uncorrected from their defaults very many losses have ofttimes resulted to many of the City as to others to the scandal of the honest men of the same misteries, our will is to approve the gild aforesaid and to confirm it to the men of the misteries aforesaid abiding in the said City to be held to themselves and their successors in perpetuity, we assenting to their supplication in this behalf do by tenour of these presents receive and approve the aforesaid gild. Willing and granting for us and our heirs that the men belonging to the misteries aforesaid in the City aforesaid and their successors may be able to have and hold their gild once in the year [7] as hath of old been accustomed to be done and in it to order and make rules for their misteries and to correct and amend the defaults of their servants aforesaid by the view of the Mayor of the City aforesaid [8] for the time being or of any whom he shall have deputed in his place and by the more worthy and sufficient men belonging to those misteries according as they may see should be done to the greater weal of the commonalty of our people, and that none hold a counter or shop touching those misteries within the liberty of the City aforesaid unless he be free of that City, and that no one be admitted to that freedom on behalf of those misteries unless he be testified to by worthy and loyal men of the same misteries as being good, faithful and fit for the same. In witness whereof we have caused these our letters patent to be made. Witness ourself at Westminster on the tenth day of March in the first year of our reign.' [9] Now we have thought fit that the tenour of our letters aforesaid should be exemplified under the seal now used by us in England.[10] In testimony thereof we have caused these our letters patent [11] to be made. Witness ourself at Langley [12] on the sixth day of February in the fifteenth year of our reign over England [13] but the second of our reign over France." [14] The which charter the said Sir Nicholas Brembre took out of the possession of the said mistery against the crown of our lord the king and yet detains

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in parts beyond the sea," which seal the king "received, and immediately delivered to William de Kildesby, to be kept in the Wardrobe" (*Close Rolls*, 14 Ed. III, pt. 1, 20 February, 1340, p. 454). Edward soon after went abroad again, and during his absence from England this last seal was again used (ib. pt. 2, p. 653); but on his return at the end of November, he "ordained that the seal brought from parts beyond the sea should be used henceforth in England" (ibid.). This is, doubtless, the seal to which, on 6 February following, he refers.

[11] See n. 2, supra.

[12] King's Langley, Herts, six miles south-west of St. Albans, where was a palace said to have been built by Henry III, and frequently inhabited by the three Edwards and Richard II. Edward III's fifth son, Edward of Langley, was so called from this his birthplace. J. E. Cussans, *Hist. of Hertfordshire, Hundred of Dacorum* (1879) p. 197.

[13] 1341. A proclamation dated 5 February shows that Edward III was at Langley at this time. *Fœdera* (Hague ed.), II, iv, 90.

[14] The regnal years in the case of France were dated from 25 January, 1340.

unqore detient la dite chartre.[15] Par quoy pleise a nostre tresexcellent et tresredoute seignur le Roy et as tresnobles seignurs de cest present parlement de cest horrible trespas fait encontre la corone nostre seignur le Roy et la ley de terre faire due remedie en oeure de charite.

PETITION OF THE HANSARDS[1]

1389 Al tresnoble et tresgracious seignour le Chanceller[2] Dengleterre supplient humblement Conrad Fynk,[3] Gerard Clambek, Warner Heynsoun, merchantz Dalemayn et del Hanse, qe come le xxviij° jour de Janeuer darrein passe les ditz suppliantz oue une nief appelle seinte Marie knyghte, lune moite de Campe et lautre moite de Lubik, charge oue xl lastes de barelles de haranges, cestassauer a dit Conrad ix lastes, au dit Gerard v lastes, a Witheman Claiston viij lastes, a dit Warner Heynson vi lastes, et a Hubert Boman vi lastes, et a Peter Scale de Doredroght en Holand et a Alard Henrison,[4] burgeis de Campe, iij lastes, a queux Peter et Alard le dit Warner estoit merchant, furent en alant sur la meer vers Hampton a vendre illoeqes le ditz harang, et siglerent uisque al Isle Wyght; cy viendrent pres eux deux niefs de Plymuthe, lun de Cok Wille et lautre de Richard Rawe de Plymmuthe, lez queux Englois a tord pristrent lour dite nief et haranges et amesnerent tanqe al hauen de Weymod, a graund damage et perde dez ditz supliantz, a cause qe le last fuist vendu illoeqes pour v li. qe valeit bien a Hampton vi li. dont estoit en lez mayns Johan Golde de Weymod largent de xxi lastes, le quel argent le dit Johan Golde deliuera et est en lez meyns sire Johan Raueneser,[5] clerc, par vertue de deux briefs de vous, tresnoble seignour, pourchacez, dount les ditz merchantz ount receuz vij lastes forsqe i barelle, et le mestre ad receu deuers luy pour soun freghte iiij lastes. Et issint lez ditz merchantz dalemayne et del hanse deussent auoir xxiij lastes i barelle, et a Peter Scale iij lastes, et a Alard Henrison de Campe iij lastes, et auxi ils ount despenduz entour la poursuyte depuis tanqe en cea xxiij marcz, et qe les gentz de Cok Wille et Richard Rawe ount largent de viij lastes i barelle et dimi, sur quoi a lour presente le conceill nostre seignour le Roi granta as ditz suppliantz qe sils purroient porter et moustrer lettres de lour seignour le duc de Gildres et dautres villes quils serroient delieures et auoir plein restitucion et deliuerance de lour biens; et sur ceo ils ount portez iij lettres del Duc de Gildres,

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[15] Apparently afterwards restored to and now in possession of the company. Clode, p. 189.

[1] *Ancient Petitions*, nos. 14,957 and 15,067, which are duplicates.

[2] William of Wykeham, chancellor from 4 May, 1389 to 1391. The address to the chancellor, sometimes to the chancellor and council, as seen in many petitions of this time, is a step leading to the growth of the court of chancery as a tribunal distinct from the council. The court was still the council, however, as the endorsement of the present petition shows. On the growth of the chancery at this time, see *King's Council*, ch. x.

[3] or Konrad Vynk of Lübeck. In 1382 he and another Hanseatic merchant made

the said charter.[15] Wherefore may it please our very excellent and very dread lord the king and the very noble lords of this present parliament to make due remedy for this horrible trespass done against the crown of our lord the king and the law of the land as a work of charity.

PETITION OF THE HANSARDS[1]

1389 To the very noble and very gracious lord, the chancellor[2] of England, Conrad Fynk,[3] Gerard Clambeck and Warner Heynson, merchants of Almain and of the Hansa, make humble supplication that whereas on the 28th day of January last the said suppliants with a ship called *The Saint Mary Knight*, one-half of Kampen and the other half of Lübeck, laden with 40 lasts of barrels of herrings, that is 9 lasts belonging to the said Conrad, 5 lasts to the said Gerard, 8 lasts to Withman Claiston, 6 lasts to the said Warner Heynson, 6 lasts to Hubert Bowman, and to Peter Scale of Dortrecht in Holland and Alard Henrison[4] burgess of Kampen, 3 lasts each, the said Warner being merchant for Peter and Alard, were sailing upon the sea towards Southampton there to sell the said herring, and they sailed as far as the Isle of Wight. Here there came upon them two ships of Plymouth, the one of Cok Wille and the other of Richard Rawe of Plymouth, and these Englishmen wrongfully took their said ship and herring bringing them to the port of Weymouth, to the great damage and loss of the said suppliants, because the last was sold there for £5 which was well worth £6 at Southhampton, of which there were in the hands of John Gold of Weymouth the money for 21 lasts; this money the said John Gold delivered and it is in the hands of Sir John Ravenser,[5] clerk, by virtue of two writs purchased of you, very noble lord, whereby the said merchants have received 7 lasts except 1 barrel, while the master has received for his freight 4 lasts. And so the said merchants of Almain and of the Hansa ought to have 23 lasts 1 barrel, and Peter Scale 3 lasts, and Alard Henrison of Kampen 3 lasts; and also they have expended upon the suit from then until now 23 marks, and since the men of Cok Wille and Richard Rawe have the money for 8 lasts 1½ barrels, wherefore in their presence the council of our lord the king granted to the said suppliants that if they could bring and show letters of their lord the duke of Gueldres and of other towns they should be delivered and have full restitution and deliverance of their goods. Hereupon they have brought three letters of the duke of

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complaint that as they were going to Flanders their ship was seized and they were arrested and detained by ministers of the Earl of Kent. The king ordered the release of the merchants provided they gave security. *Close Rolls*, 5 Richard II, m. 19, cited in Kunz, *Hanseakten aus England*, no. 215.

[4] or Henrichson.

[5] A clerk in the king's employ since 1370, mentioned as clerk of the hanaper in 1379. In 1385 he was granted 20 marks a year until he should be provided with a suitable benefice (*Cal. Pat.* 9 Richard II, 33). He was parson of Algarkirk, prebendary of Caistor in Lincoln, and of Holme in York.

iij lettres de la ville de Lubyk, ij lettres de la ville de Dirleburgh, ij lettres de la ville de Doredroght et ij lettres de la ville de Campe, certifiant et moustrant coment lez ditz biens sont droitement as ditz merchantz, nepourquant ils nount nulle deliuerance. Que plese a vostre tresnoble et tresgraciouse seignourie considerer ceste matiere et ent ordeigner de remedie par manere qils eyent restitucion de lour argent aderere pour Dieu et en oeure de charite, entendantz qe les ditz suppliantz nauoient nulle chartre de meer a cause qils ne sauoient sils encontreyont Flenynges ou Francois sur le meer, et auxi qe les ditz suppliantz riens ne volont poursuer pour les vi lastes de Hubert Boman a cause de soun forfait qil fist a Weymod susditz, et qe le dit Conrad est attourne et procurour pour Gerard Clambek et Withaman Clayston pour poursuer sibien pour eux come pour luy mesmes et touz jours les ditz suppliantz proueront bien par les euidencez susditz qe lez merchandises auantditz sont as ditz merchantz.

[*Endorsed:* —] Memorandum quod in Octabis sancte Trinitatis[6] anno presenti pro eo quod infrascriptus Conradus tanquam attornatus et procurator infrascriptorum Gerardi Clanbek et Withemanni Claiston protulit et exhibuit diuersas litteras testimoniales coram consilio domini nostri Regis testificantes bona et catalla infrascripta mercatoribus infrascriptis de jure pertinere debere, per quod per idem consilium consideratum fuit et decretum[7] quod Centum et quinque libre in manibus infrascripti Johannis de Rauenser existentes eisdem Mercatoribus integre deliberarentur. Super quo idem Johannes de mandato venerabilis patris Willelmi de Wykeham Episcopi Winton', Cancellarii Anglie, easdem Centum et quinque libras predicto Conrado deliberauit.[8]

ESTURMY *v.* COURTENAY[1]

1392 Les Records et proces touchantz le Conte de Deuenishire.[2]

Fait aremembrer qe sur un pleynt fait au Roy par William Esturmy[3] Chiualer sur Edward Courtenay Counte de Deuenshire, Nostre seignour

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[6] 14–19 June, 1389. The year is mentioned in a later document relating to the settlement of claims. Kunz, no. 329.

[7] Judgment was a common law form, decree an equitable form. The present phrase shows the failure at the time to discriminate between the two. It affords an answer also to a question propounded by Mr. Pike in an article entitled: *Common Law and Conscience* (Essays in Anglo-American Legal History [1809], ii, 722–76). "That decrees were made by the king with the advice of his Council in the reign of Richard II is a fact which admits no dispute, but that they were made in Chancery, or in consequence of a Bill presented to the Chancellor, has yet to be shown" (*op. cit.* 731). There were no decrees by the chancellor as yet, but a bill presented to the chancellor was answered by a decree of the council.

[8] On 1 May, 1390 Conrad Fynk and Warner Heynson make a recognizance in the chancery of the payment of this sum (*Close Rolls*, 13 Richard II, pt. ii, m. 8d.). Yet the claim was a matter of negotiation for many years after. See Introd., p. c.

[1] *Parliamentary and Council Proceedings* (Chancery), file 12, no. 7.

[2] Edward Courtenay, grandson and heir of Hugh, late earl of Devonshire. A full account of his life will be found in Dugdale, *Baronage*, i, 640, and in *Dict. Nat. Biog.* He was admiral of the fleet

Gueldres, three letters of the town of Lübeck, two letters of the town of Delbrück, two letters of the town of Dortrecht, and two letters of the town of Kampen certifying and demonstrating how the said goods belong to the said merchants; nevertheless they have no deliverance. So may it please your very noble and very gracious lordship to consider this matter and ordain for it remedy, so that they may have restitution of their money in arrear, for love of God and in the way of charity, considering that the said suppliants have no charter-party because they did not know whether they would encounter Flemings or Frenchmen upon the sea, and also that the said suppliants wish to make no suit for the 6 lasts of Hubert Bowman on account of the forfeiture that he suffered at Weymouth aforesaid, and that the said Conrad is attorney and proctor for Gerard Clambeck and Withman Claiston to sue for them as well as for himself. And the said suppliants will always give good proof by the evidences aforesaid that the aforesaid merchandise belongs to the said merchants.

[*Endorsed:* —] Be it remembered that in the Octaves of Holy Trinity [6] during the present year, because the aforesaid Conrad as attorney and proctor of the aforesaid Gerard Clambeck and Withman Claiston offered and exhibited divers letters testimonial before the council of the lord the king testifying that the goods and chattels aforesaid should of right belong to the aforesaid merchants, wherefore it was adjudged and decreed [7] by the said council that the £105 remaining in the hands of the aforesaid John Ravenser should be entirely delivered to the said merchants. Whereupon the said John at the mandate of the venerable father William of Wykeham, bishop of Winchester, chancellor of England, delivered the £105 to the aforesaid Conrad.[8]

ESTURMY *v.* COURTENAY [1]

1392 The records and process touching the earl of Devonshire.[2]

Be it remembered that upon a complaint made to the king by William Esturmy [3] knight against Edward Courtenay earl of Devonshire, our lord

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to the west of the Thames in 1383, Earl Marshal in 1384, justice of the peace in Devon and Cornwall in 1392, and served on various commissions of oyer and terminer (*Cal. Pat. Rolls*). Though it was alleged in a case heard in 1402 that he was a maintainer of his relative Philip Courtenay, a conspicuous deforciant and disturber of the peace (*Rot. Parl.* iii, 489), the career of the earl was in the main more honourable than his conduct in the present case might lead one to suppose.

[3] or Sturmy, representative of a family of knights and sheriffs known from the Norman Conquest (R. C. Hoare, *Hist. of So. Wiltshire*, i, 117). Their principal seat was Wolf Hall near Maiden Bradley. They held also Cousfield Esturmy, named after them, and other estates in Wiltshire, Somerset, and Hampshire. William was the heir of his uncle Henry, who died in 1381 (*Cat. Inq., p. m.* iii, 36). His marriage with Joan, former wife of Sir John Beaumont, brought him the manor of Santon in Devon (Pole, *Hist. of Devonshire*, pp. 395, 408), which was the cause of his interest in the present case. He is first noticed in the royal service in 1386, and was thenceforth appointed to numberless commissions. He was one of the

le Roy enuoia son brief a dit Counte qil serroit deuant luy et son counsail [4] ore le jeodi proschein apres le feste de la Chaundelheure [5] lan le dit Roy quinzisme amenaunt ouesqe luy un Robert Yoo [6] soun famulier; a quel jour [7] le dit William declara [8] deuaunt le dit counsail qe par la ou un William Wyke [9] del Countee de Deuenshire tenaunt a Monsieur de Huntyngdon [10] et a luy nadgairs pursuy diuers briefs nostre seignour le Roy vers le dit Robert Yoo et ascun des ditz briefs fuist pris a force des maynes le dit William Wyke par le dit Robert Yoo et Johan Langeford soun seruaunt et jettu en un podail et puis autres briefs furent directs a viscount de Deuenshire et a luy liuerez a la seute le dit William Wyke de prendre les corps lez ditz Robert et Johan. Sur quoy le feste del anunciacion nostre dame [11] darrein passe le dit Johan tapissaunt en un fosse agaita le dit William Wyke venaunt a lesglise [12] en pelrynage new des pees, horriblement luy murdra par comaundement et excitacioun le dit Robert Yoo. Et puis apres le dit William Esturmy [13] scit en companye oue Johan Wadham [14] Justice de la pees en celle Countee quaunt les ditz Robert et Johan Langeford furent enditez de la murdre suisdite par lez meultz vanez Chiualers et Esquiers de celle Countee, et puis le dit William Esturmy vient a measoun le dit Counte entendaunt dauoir heu boun desport, et la le dit Counte luy dist en presence de Johan Greneuylle [15] Chiualer qil et le faux Justice soun allie et autres auoient endite le dit Robert Yoo soun seruaunt fauxement dount il jura sur la crois de sa chapelle qe le dit William Esturmy acomperoit de soun corps luy appellaunt souent faux treitour a luy, et dist qil naueroit pluis longement respit mes celle jour de sa promesse auantdite,

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commissioners appointed 10 Jan. 1392 to arrest Robert Yeo and John Langeford in connection with the case now being tried (*Cal. Pat. Rolls*, 82). On 6 Oct. in the same year he was made a retainer of the king's household for life with a grant of 40 marks a year (ibid. 186). He was one of the arbitrators named in 1393 to deal with a complaint against Philip Courtenay (*Rot. Parl.* iii, 302), and in 1394 was in another important judicial commission touching a case of bribery and intimidation of a jury (*Cal. Pat.* 420). He was a member of parliament for Wilts in 1391 and in 1404, when he served as speaker (A. I. Dasent, *Speakers of the House*, p. 69); a member for Wilts in 1399, 1414, and 1422; also a justice of the peace in Wilts and sheriff in 1418. Under Henry IV he was one of the commissioners appointed in 1401 to treat with the duke of Gueldres and in 1405 to treat with the grand master of the Teutonic Order and with the Hanse (*Fœd.* viii, 189, 395, 396). He acquired many properties, having nearly doubled his original inheritance before his death in 1426 (*Cal. Inq., p. m.*, iv, 107). He left no son but his second daughter Maud married Roger Seymour great grandfather of Jane, queen of Henry VIII.

[4] The decision to summon the earl was reached at a meeting of the council held on 23 Jan. 1392, according to an entry in the clerk's journal (*The King's Council*, 490). The latter record differs from the present one in stating that letters, rather than a writ of summons, were to be issued. Letters in fact were more likely to be issued in dealing with persons of rank. Moreover the journal says that a writ of subpoena was to be issued to the sheriff of Devon requiring him to come on the same day.

[5] 8 Feb. 1392.

[6] Yoo, or Yo, a family whose name has been supposed to come from their dwelling place Yeo in Alwington in the north-western part of the county. This Robert, son of John, of Heanton Sachville, held Cotlegh in the hundred of Coliton (Prince, *Worthies of Devon*, p. 591; Pole, *Hist. of*

the king sent his writ to the said earl that he should be before the king and his council [4] on Thursday following the feast of Candlemas,[5] the fifteenth year of the said king, bringing with him one Robert Yeo[6] his retainer. On this day [7] the said William declared [8] before the said council that whereas one William Wyke [9] of the county of Devonshire, tenant of the lord of Huntingdon[10] and of himself, recently pursued divers writs of our lord the king against the said Robert Yeo, and one of the said writs was taken by force from the hands of the said William Wyke by the said Robert Yeo and John Langford his servant and thrown into a well, and then other writs were directed to the sheriff of Devonshire and delivered to him at the suit of the said William Wyke to seize the bodies of the said Robert and John. Whereupon on Lady Day [11] last passed the said John lying concealed in a ditch attacked the said William Wyke as he was coming to the church [12] bare-foot on a pilgrimage, and horribly murdered him by command and at the instigation of the said Robert Yeo. And afterwards the said William Esturmy [13] sat with John Wadham [14] justice of the peace in this county, when the said Robert and John Langford were indicted of the aforesaid murder by the most worthy knights and esquires of this county, and then the said William Esturmy went to the house of the said earl expecting to find good favour, and the said earl said to him in the presence of John Grenville [15] knight that he and his ally the false justice and others had indicted his servant the said Robert Yeo falsely, whereof he swore on the cross of his chapel that the said William Esturmy should answer with his body, calling him repeatedly false traitor, and said that he should have respite no longer than this day of his aforesaid promise, and moreover the

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Devonshire, p. 146). A writ for the arrest of Yeo and his servant John Langford had been issued on 10 January (*Cal. Pat. Rolls*, 282), but under the protection of the earl they could not thus be reached.

[7] The meeting of the council for this day is on record. See Introd., p. ci.

[8] Apparently the case was opened without petition or bill. No petition has been found in *Anct. Pet.*

[9] or Wike, mentioned as holding the manor of Cocktrie, of the parish of Peters Marland. Pole, p. 243.

[10] This was John Holland, half brother of Richard II, a fact that may account for the vigour with which the case against the earl of Devon was pressed. The earl of Huntingdon held a number of estates in Devon. Dugdale, ii, 78.

[11] 25 March, 1391.

[12] This occurred in the parish of Peters Marland at Combe, south of Torrington. *Cal. Pat.* 20 Ric. II, 145.

[13] Esturmy was not a justice of the peace in this year, but it was customary for the justices to invite others to sit with them.

[14] Son of Sir John, of a well known family which derived its name from a place Wadham in the parish of Knowston (Prince, *Worthies*, p. 587). He was a justice of common pleas in 1388, a serjeant at law in 1390, a trier of petitions in parliament and for many years justice of the peace in Devon and other counties. He was also member of parliament for the shire in 1400.

[15] The Grenvilles were a family located at Stow in the northeastern part of Cornwall and at Biddiford in the northwest of Devon. The mother of this Sir John was a daughter of the late Hugh Courtenay, and he was a cousin of the earl of Devon. He was sheriff at the time of the present case, 1391-92, and represented the shire in parliament in 1388, 1394, 1397, and 1402 (*Names of Members Returned*).

et outre il luy enuoia mesme le jour par le dit Johan Greneuylle qil luy tendroit loial couenaunt de ceo qil luy auoit promys et puis il dist mesmes les paroles a Walter Cornu [16] et au darrein il enuoia William Gouys en message a dit William Esturmy le quelle luy dist en presence de Monsieur James Chuddelegh,[17] le dit Johan Greneuylle et William Hankeford [18] de part le dit Counte qil fuist faux et qil acomperoit de son corps et qil sauoit touz ses chemyns ou il dust aler ou passer et qil neschaperoit mye ses mayns qar il fuist seur de luy. Et auxint le dit William Esturmy dist qe le dit Counte auoit manace et reproue William Beaumond [19] Johan Coplestoun [20] William Burlestoun [21] Thomas Cridie [22] Johan Wotton a cause qils feurent en lenqueste denditer les ditz felons. Dount sibien ils come les ditz James Johan Greneuylle et Walter Cornu furent faitz venir al dit jeody deuaunt le dit counsaill destre examinez sur les matiers auantditz. Sur ceo le dit Johan Greneuylle seremente et examine deuaunt le dit counsaill dist qil oiea mesmes les paroles qe le Counte disoit a dit William Esturmy et qil fist le message de le dit Counte en manere come le dit William Esturmy auoit declare; et Walter Cornu seremente et examine deuaunt le dit counsail dist qe le dit Counte parla a luy mesmes les paroles come le dit William Esturmy auoit dit, mes il luy deschargea de faire tiele message a lui, et les ditz James Johan Greneuylle et William Hankeford serementez et examinez deuant le dit counsaill disoient qils oierent le message estre fait a dit William Esturmy par le dit William Gouys de part le dit Counte en manere come le dit William Esturmy auoit alegge. Et le dit Johan Wadham examine deuant le dit counsail dit qe quant il fuist seaunt en une sessioun de la pees a Excestre le mardi proschein apres le feste de seint Hiller [23] darrein passe de faire proces sur les ditz felons le dit Johan Greneuylle luy dist en presence le dit William Esturmy et William Hankeford qe le dit Counte lui maunda qil dust seere en ceste sessioun plus adres sanz enclyn qil ne fist a proschein sessioun deuaunt; et le dit William Esturmy disoit qe le dit Johan Greneuylle ne dist mye soun message pleinement, qar il dist qil fuist charge a dire qe le dit Johan Wadham fuist faux Justice, et sur ceo le dit Johan Greneuylle seremente et examine deuaunt le dit counsaill dist qe soun message fuist en manere come les ditz

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[16] of Horwood, mentioned also in connection with Little Modbury (Pole, *Devonshire*, pp. 312, 391). He was sheriff in 1393-94, and one time commissioner of inquisition (*Cal. Pat.* 15 Ric. II, 522).

[17] Chudley or Chudlegh, a family name taken from Chidley in Exminster. The seat of the family was Ashton (Prince, p. 209; Pole, pp. 255, 260). Sir James was justice of the peace 1389-19, member of parliament for the shire six times between 1382 and 1394, escheator in Devon and Cornwall in 1392, and a member of various commissions (*Cal. Pat. Rolls*).

[18] or Hankford, the head of a local family and a lawyer of eminence. He was a serjeant at law in 1390, a king's serjeant at law in 1391, a justice of common pleas in 1398, a justice of the peace in Devon 1398-1403, a Knight of the Bath in 1400, and chief justice of the king's bench in 1403 (Prince, *Worthies*, p. 361; Haydn, *Book of Dignities; Cal. Pat. Rolls*).

[19] Member of a prominent family of which Sir John was the head. This William held the manor of Littleham. *Cal. Inq., p. m.*, iii, 328.

[20] Son of John Copleston, of a family of

earl sent (word) to him the same day by the said John Grenville that he should keep faith of what he had promised, and then he said the same words to Walter Cornu,[16] and at last he sent to the said William Esturmy William Gouys as messenger, who told him in the presence of Sir James Chudlegh,[17] the said John Grenville and William Hankford [18] on behalf of the said earl that he was false and that he should answer with his body, that he knew all the roads by which he must come and go, and that he should not escape the hands of the earl who was sure of him. And also the said William Esturmy says that the said earl had threatened and reproached William Beaumont,[19] John Coppleston,[20] William Burleston,[21] Thomas Credy,[22] and John Wotton because they had taken part in the inquest indicting the said felons. Wherefore these men as well as the said James, John Grenville, and Walter Cornu were required to come on the said Thursday before the said council to be examined upon the matters aforesaid. Whereupon the said John Grenville, having been sworn and examined before the said council said that he heard the very words that the earl spoke to the said William Esturmy, and that he took the message of the said earl just as the said William Esturmy had declared. And Walter Cornu having been sworn and examined before the said council said that the said earl spoke to him the same words as the said William Esturmy had said, but the earl discharged him of taking such a message; and the said James, John Grenville, and William Hankford, having been sworn and examined before the said council, said that they heard the message given to the said William Esturmy by the said William Gouys on behalf of the said earl just as the said William Esturmy had alleged. And the said John Wadham, having been examined before the said council, says that while he was sitting in a session of the peace at Exeter on Tuesday following the last feast of St. Hilary,[23] holding process upon the said felons, the said John Grenville told him in the presence of the said William Esturmy and William Hankford that the said earl sent word to him that he should sit more uprightly without partiality in this session than he had at the last session. And the said William Esturmy said that the said John Grenville did not give his message fully, for he said that he had been charged to say that the said John Wadham was a false justice; and as to this the said John Grenville, having been sworn and examined before the said council, says that his message was the same as

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squires named after their seat in Colebrook (Prince, p. 171). An hereditary right of the family was to wear a collar of silver esses and a pair of silver spurs (Polwhele, *Hist. of Devon*, i, 267). This John was in 1388 custodian of the king's stannery in Devon and steward of the royal manor and lordships there (*Cal. Pat.* 422). He was justice of the peace in 1392, and at times commissioner of oyer and terminer, &c.

[21] Mentioned here as one of the justices of the peace in 1392, but there is no such commission to him in the *Patent Rolls* prior to 1394. He was also in that year escheator in Devon. *Cal. Pat.*, 438, &c.

[22] King's serjeant at arms, 1389–94, one of the commission appointed 10 January to arrest Robert Yeo. *Cal. Pat. Rolls*, 15 Ric. II, 82.

[23] 16 Jan. 1392.

Johan Wadham et William Esturmy auoient declare, et auxint le dit William Beaumond seremente et examine deuaunt le dit counsaill dist qil fuist vilonousement reproue par un Johan Foke esquier le dit Counte et au darrein par le Counte mesmes qil fuist perjurs pour lenditement suisdite mes ceo fuist aretter plus a autres qa luy dount lui couenoit de janoiller et crier merci. Et auxint le dit Johan Foke[24] dist a dit William Beaumond qe le dit James Chuddelegh fuist faux. Et auxi le dit Counte disoit a dit William Beaumond qe le dit Robert Yoo serroit delyuerez maugre lez dens lez ditz Johan Wadham et William Esturmy. Et Johan Copleston seremente et examine deuaunt le dit counsaill dit qe le dit Counte luy reproua et dist qil fuist perjurs pour le cause suisdite. Et le dit William Burlestoun seremente et examine deuaunt le dit counsail dit qe le dit Counte luy reproua et dist qil fuist fauxement perjurs. Et Johan Wotton seremente et examine deuaunt le dit counsaill dit qe le dit counte luy reproua et dist qil fuist perjurs, etc. Et pour ceo qe comande feust au dit Counte par brief destre deuant le Roy et soun counsaill a Westminster al jody auantdite de respondre as choses qe luy serroient exposez depart le Roy a quel jour le dit Counte vient deuant le dit counsaill et auoit jour outre de jour en autre tanqe il plerroit au Roy dentendre a mesme le busoigne. Sur quoy apres le jeody[25] proschein ensuant en presence de nostre seignour le Roy et des seignours espirituels et temporeles ouesqe luy esteantz cestassauoir le Duc de Guyene et de Lancaster[26] les Ercheuesqes de Canterbers[27] et Deuerwyck[28] Chaunceller, leuesqes de Loundres[29] Wyncestre[30] leuesqes de Dureham[31] Seint Dauy[32] Cestre[33] Salesbirs,[34] Tresorer, Hereford[35] et Chichestre,[36] les Duces Deuerwyk[37] et Gloucestre,[38] les Countes de Derby[39] Rotlond[40] Arundell[41] Huntyngdon[42] et Mareschall[43] et le Sire de Roos[44] et plusours autres ou purpose feust enuers le dit Counte de Deuenshire toute la matire auantdite et auxint ceo qe le dit Robert Yoo feust endite de felonie deuant les Justices de la pees de queux le dit Counte de Deuenshire y auoit conisance de mesme lenditement et ne myst pas en arest le dit Robert, eins le recetta. A quoy le dit Counte de Deuenshire respondy endroit de message qil auoia au dit Johan Wadham Justice qe ce estoit voir et de ce il se myst en la grace nostre seignour le Roy, et de ce

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[24] or Fowke of Richard's Castle. *Cal. Pat.*, 18 Ric. II, 543; Pole, p. 414.

[25] 15 Feb. The meeting on this day is noticed in the record given in *King's Council*, p. 494.

[26] John of Gaunt.

[27] William Courtenay, an uncle of the present earl of Devon, archbishop, 1381–97.

[28] Thomas Arundel, archbishop, 1388–96, chancellor, 1391–96.

[29] Robert Braybroke, bishop of London, 1381–1404.

[30] William of Wykeham, bishop of Winchester, 1367–1404.

[31] Walter Skirlaw, bishop of Durham, 1388–1406.

[32] John Gilbert, bishop of St. David's, 1389–97.

[33] Richard le Scrope, bishop of Chester and Lichfield, 1386–98.

[34] John Waltham, bishop of Salisbury, 1388–95, treasurer, 1390–95.

[35] John Trevenant, bishop of Hereford, 1389–1404.

the said John Wadham and William Esturmy had declared; and also the said William Beaumont, having been sworn and examined before the said council, says that he was vilely reproached by one John Folk,[24] esquire of the said earl, and afterwards by the earl himself, that he was perjured in the aforesaid indictment, but this would be true of others more than of himself whom it behooved to kneel and cry " mercy." And also the said John Folk said to the said William Beaumont that the said James Chudlegh was false. And also the said earl said to the said William Beaumont that the said Robert Yeo would be delivered in spite of the teeth of the said John Wadham and William Esturmy. And John Coppleston, having been sworn and examined before the said council, says that the said earl reproached him, saying he had perjured himself for the aforesaid cause. And the said William Burleston, having been sworn and examined before the said council, says that the said earl reproached him saying he had falsely perjured. And John Wotton, having been sworn and examined before the said council, says that the said earl reproached him saying he had perjured, etc. And inasmuch as the said earl had been commanded by writ to be before the king and his council at Westminster on the aforesaid Thursday to answer to the things that should be laid against him on behalf of the king, on this day the said earl came before the said council and was given one day after another until the king should be pleased to attend to this business. Whereupon after the following Thursday[25] in the presence of our lord the king and of the lords spiritual and temporal remaining with him, namely the duke of Guienne and Lancaster,[26] the archbishop of Canterbury[27] and the archbishop of York,[28] chancellor, the bishops of London,[29] Winchester,[30] Durham,[31] St. David's,[32] Chester,[33] the bishop of Salisbury,[34] treasurer, the bishops of Hereford[35] and Chichester,[36] the dukes of York[37] and Gloucester,[38] the earls of Derby,[39] Rutland,[40] Arundel,[41] Huntingdon[42] and the earl marshall,[43] Lord Roos,[44] and many others, wherein was propounded the entire matter aforesaid touching the said earl of Devonshire, as well as the fact that the said Robert Yeo was indicted of felony before the justices of the peace from whom the said earl of Devonshire had knowledge of the same indictment, but he did not put the said Robert under arrest; rather the earl harboured him. To this the said earl of Devonshire answered as regards the message that he sent to the said John Wadham justice that this was true, and for this he threw himself on the grace of our lord the king, and as to his having reproached the men

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[36] Richard Mitford, bishop of Chichester, 1389–95.

[37] Edmund of Langley, 1341–1402.

[38] Thomas of Woodstock, 1355–97.

[39] Henry of Bolingbroke, later King Henry IV.

[40] Edward, eldest son of the duke of York, earl of Rutland, 1390–1415.

[41] Thomas Fitzalan, fifth earl of Arundel, 1381–1415.

[42] John Holland, half brother of Richard II, earl of Huntingdon, 1387, later duke of Exeter.

[43] Thomas Mowbray, earl of Nottingham.

[44] or Ros of Hamlake, baron, 1384–94.

qil deust auoir reproue les gentz qestoient jurez en la dite enqueste surmettant qils estoient perjurs il conust qil parla a ascuns de eux endisant qil lui peisa grauntement qils estoient perjurs nemie al entente de les reprouer, et de ce il se myst auxint en la grace le Roy; et de ce qil deust auoir manace le dit William Esturmy quauoit commission du Roy dauoir pris le dit Robert Yoo come feust surmys au dit Counte de Deuenshire il respondy et dit qil nauoit conisance qe le dit William auoit tiel commission, mes il disoit qil vorroit auoir debruse sa teste et de ce auxint il se myst en la grace de Roy; par quoy agarde feust par nostre seignour le Roy et soun dit counsaill qe le dit Counte de Deuenshire soit commis a la prisone a y demorer tanqil eit fait fyn et raunceoun a nostre dit seignour le Roy a volente mesme nostre seignour le Roy. Sur quoy meintenant apres touz les seignours auantditz sibien spiritueles come temporeles prieront a nostre seignour le Roy de faire grace au dit Counte de Deuenshire eiant regard qil estoit de son sank et de ses uncles [45] et qil estoit le primere foiz qe ascune tiele pleinte feust fait a nostre dit seigneur le Roy du dit Counte de Deuenshire. Nostre seignour le Roy a la requeste suisdite lui fist grace et pardon en celle partie sur tiel condicion qil eidereit et sustiendroit a soun poair les leis nostre dit seignour le Roy et les execucions dicelles et ses ministres ceux leis et execucions fesantz et gardantz issint qe si ascune defaute feusse troue en luy en temps auenir a contrarie de ce, qe le Roy nostre dit seignour resortereit sibien a les trespas et lexecucion suisditz come des trespas et mesfaitz de nouelle par lui faitz et perpetreez.[46]

WERKESWORTH *v.* PENSAX [1]

1393 ? A trespuissant et tresgracious seignour, nostre seignour le Roy, et soun conseille en cest present parlement [2] suppliont humblement Robert de Werkesworth et Margaret sa femme qe come Percyuall Pensax,[3] William son fitz, Robert Rynell et Robert Sherman ouesqe grant compaignie des plusours autres ses fautours et communes maufesours viendrent oue force et armes al meson du ditz Robert et Margaret a Ulskelf [4] en le counte Deuerwyk le Maresdy prochein deuant le fest de lascension [5] de nostre Seignour darrein passe et illoeqes dispoillerent les ditz Robert et Margaret

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[45] The earl was a descendant of Edward I through his grandmother, Margaret Bohun, and was constantly recognized by the king as his kinsman. See *Geneal. Table,* Dugdale i, 635.

[46] This incident is to be connected with the proceedings in *King's Council,* p. 495. See Introd., p. ciii.

[1] *Ancient Petitions,* nos. 1254 and 10,645, duplicates.

[2] If the inferred date is correct, the parliament here alluded to met 20 January and ended 10 February. Much brigandage was reported but little was done to afford relief (e. g. *Rot. Parl.* iii, 308). The present petition is not on the Rolls of Parliament and was in all probability left to be treated by the council afterwards.

[3] It may have been with reference to this case, or it may have been another, that a commission was issued on 26 August, 1393, for the arrest and imprisonment of Percival Pensax and his sons Thomas, William, and Robert (*Cal. Pat. Rolls,* 17 Ric. II, 356). This is the only

who had sworn in the said inquest, suggesting that they had perjured, he acknowledged that he spoke to some of them declaring that it weighed heavily upon him that they had perjured, not with the intent of reproaching them, and for this also he placed himself in the king's grace; and as to his having threatened the said William Esturmy who had the king's commission to take the said Robert Yeo as had been alleged against the said earl of Devonshire, he answered saying that he had no knowledge of the said William having such a commission, but he did say that he would like to break his head, and for this also he placed himself in the king's grace. Whereupon it was adjudged by our lord the king and his said council that the said earl of Devonshire should be committed to prison, there to remain until he paid to our lord the king fine and ransom at the pleasure of our said lord the king. Immediately thereafter all the aforesaid lords, spiritual as well as temporal, prayed our lord the king to do grace to the said earl of Devonshire, having regard for the fact that he was of royal blood and one of his uncles,[45] and that it was the first time any such complaint had been made to our lord the king against the said earl of Devonshire. Our lord the king at the aforesaid request extended to the earl grace and pardon in his behalf on condition that he should aid and sustain according to his power the laws of our said lord the king and the execution thereof as well as his ministers in guarding the laws and making execution thereof, so that if any default on his part should be found in time to come contrary to this (understanding), our said lord the king would take cognisance of the trespasses and the execution aforesaid, as (though they were) trespasses and malfeasances committed and perpetrated by him anew.[46]

WERKESWORTH *v.* PENSAX[1]

1393 ? To the very powerful and very gracious lord, our lord the king, and his council in this present parliament[2] humbly petition Robert of Werkesworth and Margaret his wife that, whereas Percival Pensax,[3] William his son, Robert Rynell and Robert Sherman with great company of many other abettors of his and common malfeasors came with force and arms to the house of the said Robert and Margaret at Ulskelf[4] in the county of York on Wednesday before Ascension Day[5] last, and there despoiled the said Robert and Margaret of their said house, and took and destroyed all

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clue to the date of the petition. This Percival was a younger son of Richard Pensax who in 35 Edw. III left the manor of Skegby in Sherwood Forest to his elder son William, of whom it was later purchased together with a messuage and twenty acres in Ashefield by Percival (Thoroton, *Nottinghamshire*, ii, 301). Percival also had interests in Horyngton, Yorkshire (Feet of Fines, *Yorks. Arch. Soc.* [1915], 87). His son Robert Pensax was pardoned of a murder in 1391 (*Cal. Pat. Rolls*, 14 Ric. II, 356). The manor of Skegby was inherited by William and afterwards acquired by Thomas (*Cal. Pat.* 10 Hen. IV, 442).

[4] or Ulleskelf, a township and village on the Wharf in West Riding one mile southeast of Kirkby Wharf.

[5] 14 May, 1393 (?).

de lour dite meson, et toutz lours biens et chateux dedeinz trouez pristrent et destruerent, et les arbres deinz lour jardein [c]resceauntz abaterent et degasterent, et eux de lour dite meson et toutz lour autres terres et tenementz illoeqes torteuousement et encountre la ley ousteient, issint qe les ditz Robert et Margaret nosent approchier a lour dite meson ne poursuier la commune ley pour doute de lour mort, et auxi le dit Percyuall ne voet venir a response pour nulle brief du Roi qils pourront pourchacer enuers luy, a grant damage et anyentisment des ditz Robert et Margaret, queux tortz et greuances sont trouez par enquestes pris en pais de la pluis sufficeantz gentz touchant la matire suisdite, et retournez en la Chauncellarie et enuoiez en bank le Roy, qe plese a vostre hautesce denuoier pour le dit Percyuall et les autres meffesours suisditz de venir a response, et de ordeiner qe les ditz Robert et Margaret purront reauoir et rejoier lour dite meson, terrez et tenementz, oue ses chateux, pour Dieu et en oeure de charite.

[*Endorsed:* —] Purceo qe Percyuall Pensax et William son fitz dedeinz escriptz sont enditez deuant le viscont Deuerwyk des articles deinz escriptz, come piert par le dite enditement retorne en la Chancellarie et enouie en bank le Roy, et auxint purceo qe tesmoigne est qe le dit Percyuall est commune meffesour et meyntenour en paiis, par consideracion qe les suppliantz ne purront pour pouert auoir recouerer par la commune ley, acco[rd]e est et assentuz qe brief soit enuoiez al viscont Deuerwyk de prendre et arestier lez ditz Percyuall et William et les autres meffesours dedeinz nomez ou ils purront estre trouez deinz sa baille, dedeinz franchise ou de hors,[6] et de les amesner deuant le conseil nostre seignour le Roi pour y respondre as ditz suppliantz des tortz et damages especifiez en cest peticion, et affaire outre et receuire ceo qe par le dit conseille serra agarde celle partie sur peyne de C li. et qe auxint brief soit mande au dit Percyuall et les autres sur lour ligeance de y venir et respondre, faire et receuire en la fourme auantdit.[7]

TENANTS OF WINKFIELD *v.* THE ABBEY OF ABINGDON[1]

A

Le roy voet qe soun consel ordayn.[2]

1394 A nostre tresredoute et tresgracious seignur le Roy.

Supplient treshumblement voz poueres tenantz de Wynkfeld[3] en le countee de Berk' regardantz[4] a vostre chastiel de Wyndesore qe come

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[6] Liberties were more or less completely immune to the writs of common law. In the same parliament there was complaint that homicides and robberies were being committed in the western counties, and then the malfeasors would escape into one or another of the Welsh marches, where they were under the sole jurisdiction of the lord of the place. The commons desired that some process might be devised whereby the fugitives might be reached, but the king was unwilling to concede anything that might infringe upon these liberties (*Rot. Parl.* iii, 308). Royal writs did not run in the palatinates but the *non omittas* could be served on the bailiff of a liberty in a county.

[7] Apparently these writs failed, and so they were followed by the aforesaid commission of arrest of 26 August.

[1] *Chancery Miscellaneous Inquisitions*, file 254; 3 membranes, A the petition, B the inquisition, C the statement of grievances.

their goods and chattels found therein, and cut down and wasted the trees growing in their garden, and wrongfully and illegally ousted them from their said house and all their other lands and tenements there, so that the said Robert and Margaret do not dare to approach their said house or to pursue the common law for fear of their lives; moreover since the said Percival will not come to answer any writ of the king that they can purchase against him, to the great damage and ruin of the said Robert and Margaret; which wrongs and grievances have been found by inquisition taken of the most sufficient persons in the county regarding the aforesaid matter and returned to the chancery and sent to the king's bench; may it please your highness to send for the said Percival and the other malfeasors mentioned above to come to answer, and to ordain that the said Robert and Margaret can again have and enjoy their said house, lands and tenements; for God and in way of charity.

[*Endorsed:* —] Inasmuch as Percival Pensax and William his son herein described have been indicted before the sheriff of York of the articles herein written, as appears by the said indictment returned in the chancery and sent to the king's bench, and also because it is testified that the said Percival is a common malfeasor and maintainer in the county, in consideration of the fact that the suppliants because of (their) poverty cannot have recovery by the common law, it is accorded and agreed that writ should be sent to the sheriff of York to take and arrest the said Percival and William and the other malfeasors herein named wherever they can be found within his bailiwick, (whether) within franchise or without,[6] and to bring them before the council of our lord the king there to answer the said suppliants for the wrongs and damages specified in this petition, further to do and receive what shall be awarded by the said council in this affair, under penalty of £100.; and that writ should also be sent to the said Percival and the others upon their allegiance to come and answer, to do and receive after the form above given.[7]

TENANTS OF WINKFIELD *v.* THE ABBEY OF ABINGDON [1]

A

The king wishes his council to ordain.[2]

1394 To our very redoubtable and very gracious lord the king.

Very humbly beseech your poor tenants of Winkfield [3] in the county of Berks *regardant* [4] to your castle of Windsor that, whereas divers fees, cus-

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[2] Written in an irregular unclerkly hand. At the bottom of the petition there is a roughly drawn signature that I cannot interpret.

[3] The manor of Winkfield, Wingfield, or Wenesfelle, in the hundred of Riplesmere, lay 3 miles southwest of Windsor, and extended into the forest of Windsor. The abbey of Abingdon claimed it by ancient grants of the crown (*Chron. Monas. de Abingdon* [Rolls Ser.], i, 114, 429); it is set down in Domesday Book as a tenement of the abbey (*Domesday*, i, 59; *Victoria Hist.* i, 340). As recently as 25 Feb. 1393, there had been obtained a certificate to this effect at the exchequer (*Cal. Pat.* 231). But the title was questionable. See Introd., p. ciii.

[4] Some time ago Professor Vinogradoff wiped away a tradition of long standing

diuerses fees, custumes et seruices sont subtrahis et oustez del abbe de Abbyngdon [5] par exitacion et couyn Johan Benfeld [6] et William Stafferton et autres malfesours qe plusours extorcions, tortz, greuances et oppressions ent este faitz a voz ditz poueres tenantz en destruccion del eux et desheriteson de lour heires pour toutz jours et [en prejudice] de vostre corone et vostre fraunchise illoeqes, si ne remede ent soit fait par auys de vostre tressage conseill, plese a vostre treshaut et tresroial mageste de commander vostre Chaunceller et ordiner par auys de vostre tressage counseill qe hastive remede et redresse sibien touchant les greuances, torz, extorceons issint faitz a voz ditz tenantz come pour la saluacion de vostre droit seignure, qe droit et reson soit fait, sicome la commune ley demande pour Dieux et en oeure de charitee.

B

Inquisicio capta apud Wyndesore die Martis proxima post festum sancti Petri quod dicitur aduincula [7] anno regni Regis nunc decimo septimo coram Gilberto Burton et Thoma Wyssyname per commissionem domini Regis cum aliis assignatis prout predicta commissio plenius contestatur ad inquirendum de diuersis feodis consuetudinibus seruiciis a domino Rege subtractis et concellatis in villa de Hurst [8] et Wynkfeld in comitatu Berk', necnon bonis diuersis utlagatorum in eodem comitatu ab ipso domino Rege subtractis et concelatis per sacramentum Nicholai Aylward, Johannis Cranemore, Johannis Kilby, Johannis Corbet, Johannis Haueryng, Johannis Kyngeston, Johannis Spynk, Thome at Lee, Johannis Benet junioris, Willelmi Rede, Johannis Placy et Thome Herpecote, qui dicunt per sacramentum suum quod omnes tenentes de Wynkfeld tenerent omnia terras et tenementa sua in villa predicta de domino Rege in capite et sic sunt liberi tenentes domini Regis, set de Hurst nichil sciunt dicere.

Informacio pro Rege qualiter tenentes de Wynkfeld tenent et de quo.

In primis dicti tenentes tenent de Rege ut de capite reddendo vicecomiti Berk' nomine Regis annuatim in festo sancti Martini unum denarium vocatum Herthpenny [9] summa xxx d. per annum.

Item dicti tenentes reddunt per annum vicecomiti supradicto le hidage [10]

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that there existed a class of villeins *regardant* in distinction from villeins *in gross*. There were no such classes. It is only when there is a legal reason for connecting villeins with a given manor, in this case Windsor, that they are spoken of as *regardant* (Vinogradoff, *Villainage in England* [1892], pp. 46 f.). In other words the villeins claim that they belong to Windsor Castle and so are tenants of royal demesne.

[5] A Benedictine monastery in Berkshire. Dugdale, *Monas.* i, 505.

[6] or Benefeld, formerly a servant of Michael de la Pole, was granted in 1386 the custody of the park and warren of Benhall in Suffolk (*Cal. Pat. Rolls*, 251), and was made in 1396 ranger of the Forest of Sapley and Wabridge in Huntingdon (*Cal. Pat.* 691). He may have held some such office at Windsor. In the following statement of grievances he appears to have been acting together with Stafferton as agent of the abbot of Abingdon. He was finally murdered in the highway of Winkfield (*Cal. Pat.* 4 Hen. IV, 225).

[7] 5 August, 1394.

[8] A single manor, lately formed by joining the two manors of Hurst and

toms, and services are withdrawn and removed of the abbey of Abingdon [5] by excitation and covin of John Benfeld [6] and William Stafferton and other malfeasors, who have committed many extortions, wrongs, grievances, and oppressions there against your said poor tenants to their destruction and the disinheritance of their heirs forever and [in prejudice] of your crown and your franchise there, unless remedy therefor be afforded by advice of your very sage council; may it please your very high and very royal majesty to command your chancellor and to ordain by advice of your very wise council speedy remedy and redress, as well touching the grievances, wrongs, extortions thus done to your said tenants as for the salvation of your seigneurial right, that right and reason may be done, as the common law demands, for God and in the way of charity.

B

Inquisition taken at Windsor on Wednesday following the feast of St. Peter *ad vincula*,[7] in the seventeenth year of the present king, before Gilbert Burton and Thomas Wissename by commission of the lord the king with others assigned, as the aforesaid commission more fully attests, to inquire of diverse fees, customs, services withdrawn and concealed from the lord the king in the manors of Hurst [8] and Winkfield in the county of Berks, and also divers goods of outlaws in the same county withdrawn and concealed from the same lord the king, by oath of Nicholas Aylward, John Cranmore, John Kilby, John Corbet, John Havering, John Kingston, John Spynk, Thomas at Lee, John Benet junior, William Rede, John Placy, and Thomas Herpecote, who say on their oaths that all tenants of Winkfield hold all their lands and tenements in the aforesaid manor of the lord the king *in capite* and so are free tenants of the lord the king, but of Hurst they are able to say nothing.

Information for the king how the tenants of Winkfield hold and of whom.

First, the said tenants hold of the king, as *in capite*, rendering to the sheriff of Berkshire in the name of the king annually at the feast of St. Martin one penny called Hearthpenny [9] sum of 30 d. a year.

Also, the said tenants render by the year to the aforesaid sheriff hidage,[10]

Whistley, lying 6 miles east of Reading. The abbot was asserting the same claim to Hurst as to Winkfield. *Chron. Monas. de Abingdon*, i, 291-294.

[9] The same as Peter's Pence, sometimes called Romepenny, a penny traditionally paid by every householder. The portion contributed by each diocese was fixed and the surplus went to the bishops, archdeacons, and agents whom they employed (W. E. Lunt, *Financial System of the Papacy*, Quar. Journal of Econ. xxiii, 278 f.). It has been supposed that the collection was entirely in the hands of ecclesiastical authorities, but here we have an example of its being paid with other annual dues to the sheriff.

[10] A remnant of the former Danegeld surviving as a common tax (Vinogradoff, *Society in the Eleventh Century*, p. 144). In the thirteenth and fourteenth centuries it was not maintained in all counties under this name; sometimes it was irregular, *quando currit*. The usual rate was 2 s. a hide and fractions of hides in the same proportion. It was usually paid to the sheriff

et faciunt sectam curie de septimana in terciam septimanam, soluendo dicto vicecomiti le hidage ad festum Sancti Martini
summa xl d. per annum.

Item dicti tenentes reddunt vicecomiti supradicto in festo Sancti Johannis Baptiste pro qualibet virgata[11] terre unum denarium
summa xxvii d. per annum.

Item dicti tenentes reddunt per annum ad Castrum de Wyndesore pro pasturis[12] xij d. ad festum Omnium Sanctorum.

Item reddunt ad Castrum supradictum annuatim panagium[13] secundum numerum porcorum prout contigit pro porco.

Abbas et conventus de Abyngdon ex dono Regis recipient annuatim pro qualibet virgata terre pro omnibus seruiciis et custumis iij s.

C

Ceux sont les tortz greuancez et oppressionz faitz a les poueres tenantz de Wyngefeld regardant al seignourie del Chastell de Wyndesore en parcellz. Primerement labbe dabyngdon claime les ditz tenantz sez neifes, lou ils teignent en chief de nostre seignour le Roy, et ceo par excitacion et couyne de Johan Benfeld et William Stauerton et autres ses adherentz, lesqueux tenantz ils vexent et trauaillent de jour en autre, et les ont emprisones par diuersez foitz, et ceo par cause de lour faire granter qils sont neifes a dit abbe, lou ils sont frankes et de frank condicion, come pleinement appert par enqueste jadis pris par vertue dune commission en cele partie fait denquerir del tenure des ditz tenantz et des diuersez feez custumez et seruicez a nostre dit seignour le Roy subtraictz en la dit ville de Wynkefeld, et aillours, les queux tenantz furent trouez frankez tenantz nostre dit seignour le Roy par mesme lenquest; et puis par cause del purchasere du dit commission pour le profit nostre dit seignour le Roy lez ditz Johan Benfeld et William Stauerton et autres de lour couyne firent enditer lez ditz tenantz, par vertue de quel enditement certeinz dez ditz tenantz, cestassauoir Estephen Saward,[14] Thomas Somerton[14] et Johan Saman[15] furent pris et amesnez a Loundres et illoeqes furent detenuz en prisone de Flete par demy an et pluis en grant duresse mischief et disease, sanz autre cause ou procez eux surmis, et puis lour deliuerance hors de

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on his tourn or in the hundred court, by the knight's fee, vill or hundred. Sometimes it was paid to the lord of the manor, who either retained it or paid it over to the king (Neilson, *Customary Rents* [Oxford Studies], ii, 115 f.). In the present case it was a customary annual due.

[11] The virgate was considered the normal holding of a peasant; the usual equation was 4 virgates to the hide, although in localities it might run 8 virgates to the hide (Vinogradoff, *Villainage*, p. 148; *Society in the Eleventh Century*, pp. 150-152). In a case being tried in Hampshire 4 Ed. II, a bovate, that is half of a virgate, was offered for 16 acres, but the chief justice answered, "Some carucates and bovates are held for more and some for less acres" (*Year Books* [Selden Soc.], 4 Ed. II, 46). Also supra, p. 1, n. 4.

[12] There were many different names and modes of computing pasture rents. Neilson, pp. 68 f.

[13] A due for the agistment of swine,

and they make suit of court every third week, paying to the aforesaid sheriff the hidage at the feast of St. Martin sum of 40 d. a year.

Also, the said tenants render to the aforesaid sheriff in the feast of St. John the Baptist for each virgate [11] of land one penny sum of 27 d. a year.

Also, the said tenants render annually at the castle of Windsor for pasture [12] 12 d. at All Saints'.

Also, they render at the aforesaid Castle annually pannage [13] according to the number of swine as it happens for swine.

The abbot and convent of Abingdon by gift of the king receive annually for each virgate of land for all services and customs 3 s.

C

These are the wrongs, grievances, and oppressions done to the poor tenants of Winkfield *regardant* to the lordship of the castle of Windsor in particular. First, the abbot of Abingdon claims the said tenants as his serfs, whereas they hold in chief of our lord the king, and this by excitation and covin of John Benfeld and William Staverton and others of their adherents, which tenants they vex and harass from day to day, and have imprisoned them at divers times, and this in order to make them admit that they are serfs of the said abbot, whereas they are free and of free condition, as plainly appears by the inquest just taken by virtue of a commission given in this part to inquire of the tenure of the said tenants and of the divers fees, customs, and services withdrawn from our said lord the king in the said manor of Winkfield and elsewhere, which tenants have been found free tenants of our lord the king by the same inquest; and then, because of the purchase of the said commission for the profit of our lord the king, the said John Benfeld, William Stamerton, and others of their covin had the said tenants indicted, by virtue of which indictment certain of the said tenants, namely Stephen Saward,[14] Thomas Somerton,[14] and John Saman [15] were seized and taken to London and were there detained in the prison of the Fleet for half a year and more in great duress, mischief, and disease, without other cause or process surmised against them, and after their deliverance from the Fleet they were

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payable by villeins only, freemen presumably having some wood-rights of their own. There were different modes of computing it, e. g. for 10 pigs the lord shall have the third best pig which he shall choose; for a pig over one year old he shall have a penny, for a pig a half year old a halfpenny, &c. (C. Deedes, *Register of Ewell*, 138, 139, 144). Sometimes it was exacted as a regular due, whether any pigs were raised or not (Neilson, pp 71 f.).

[14] These men were leaders or attorneys of the peasants. Saward and Somerton are mentioned as requesting the extract from Domesday Book regarding the title of the manor. *Cal. Pat.* 16 Ric. II, 231.

[15] or Salaman, mentioned as forester of Cranbourn in Windsor Forest, whose death occurred before December, 1395. *Cal. Pat. Rolls*, 658.

Flete ils furent amesmez abbey de Abbyndon sur sauue garde, et illoeqes furent cloisez et enprisonez en un maeson, et le dit abbe et son conseil firent certeinz escriptz de quele matiere les ditz prisoners ne sauoient rien, les queux vindrent a ditz Estephen, Thomas et Johan en prisone, et voudrent eux auoir fait ensealer lez ditz escriptz, lou ils tout outrement refusent, et puis certeinz de soun conseil ensealerent lez ditz escriptz [16] de lour propre auctorite, et ore ils surmettent qils ont ensealez lez ditz escriptz, lou ils unqes rien ne fesoient; et puis lez ditz Johan Benefeld et William Stauerton et un Johan Warfeld, qest mort, entreront en toutz les terres et tenementes des ditz Estephen Thomas et Johan Saman et unquore lez deteigement ensemblent ou toutz lour biens et chateux illoeqes trouez a lour propre oeps. Et outre ceo, lou certeinz forfaitures et eschetez ont este donez a nostre dit seignour le Roy par diuersez enquestez pris deuant leschetour illoeqes lez ditz Johan Benefeld et William Stauerton et autres de lour adherantz oretarde de nouelle firent un enquest de lour affinite couyne et vesture passer encontre nostre dit seignour le Roy a Madenhethe des mesmes les forfaitures et eschetez amontantz a xl marcs et pluis, et issint ils sont oustez de tout ceo qils auoient par cause qils ne voillent granter et consentier as ditz abbe, Johan Benefeld et William Stauerton et autres de lour couyne pour desheriter nostre dit seignour le Roy de parcell de son seignourie illoeqes, dont ils prient une commission directez as certeinz Justicez denquerer de toutz les greuansez torts et extorsions issint faitz sibien as ditz tenantz come en prejudice et arrerisement del seignourie nostre dit seignour le Roy illoeqes ou autrement qils soient fait venir deuant le conseil a respondre la matiere auantdite et as autres choses qe lour serront surmys pur le profit nostre dit seignour le Roy.[17]

HOGONONA *v.* A FRIAR AUSTIN [1]

1401 A tressage conseil nostre seignour le Roy.

Supplie humblement son pouere chapellein Nichol Hogonona [2] del terre dirlande qe come il soy purpoisa oretarde pour aler al Courte du Rome en pelrinage par cause de certeins avowes qil auoit fait, et issint vient en Engleterre, et quant il feusse venuz a Oxenford il compaigna ouesqe un frere Austyn et a luy dona xl d. et ses costages pur luy amesnir a Londres, et auxi il deliuera a dit frere lx s. pur gardir; et quant ils furent venuz a Londres le dit pouere Chapellein demanda liuere de soun dit argent et voudra auoir pursue pur soun brief de passage [3] et [en] le mesne temps le

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[16] These may have had to do with the extract from Domesday just mentioned.

[17] So far as we know, nothing was done in answer to their prayer until 4 Dec. 1397, when a commission was issued, followed by another on 16 July, 1398. *Cal. Pat. Rolls*, 310, 433.

[1] *Ancient Petitions*, no. 8556.

[2] Of the complainant himself nothing further is known, but from what follows we see that he was one of those wandering Irish clerks against whom there was much complaint at Oxford and Cambridge. These " vagabonds," it was said, come in the habit of poor scholars, live under the government of no principals, lurk about

taken to the abbey of Abingdon under safeguard, and were there shut and imprisoned in a house, and the said abbot and his counsel made certain writings, of what matter the said prisoners know nothing, and these men came to the said Stephen, Thomas, and John in prison, and would have made them enseal the said writings, whereas they refused everything further, and then certain (men) of their counsel of their own authority ensealed the said writings, and now they submit that the tenants have ensealed the said writings,[16] whereas they have never done anything; and then the said John Benefeld and William Staverton and one John Warfeld, who is dead, entered all the lands and tenements of the said Stephen, Thomas, and John Saman and still detain them together with all their goods and chattels found there to their own use. And moreover, whereas certain forfeitures and escheats have been given to our lord the king by diverse inquests taken before the escheator there, the said John Benefeld and William Staverton and others of their adherence lately anew caused an inquest of their affinity, covin, and livery to be held against our lord the king at Maidenhead concerning the same forfeitures and escheats amounting to 40 marks and more, and so the tenants are ousted of all that they had because they were unwilling to yield and consent to the said abbot, John Benefeld and William Staverton and others of their covin in order to disinherit our lord the king of part of his lordship there, wherefore they pray for a commission directed to certain justices to inquire of all the grievances, wrongs, and extortions thus done as well to the said tenants as in prejudice and diminution of the lordship of our lord the king there, or else that they be required to come before the council to answer for the matter aforesaid and for other things that will be submitted to them for the profit of our said lord the king.[17]

HOGONONA *v.* A FRIAR AUSTIN[1]

1401 To the very sage council of our lord the king.

Humbly beseecheth his poor chaplain Nicholas Hogonona[2] of the land of Ireland that whereas he lately proposed to go on a pilgrimage to the court of Rome by reason of certain vows that he had made, and so came to England, and when he had come to Oxford he associated with a friar Austin, and gave him 40 d. and his costs to bring him to London, and also he delivered to the said friar 60 s. to keep; and when they had come to London the said poor chaplain demanded the return of his said money and wished to have suit for his writ of passage,[3] and in the meantime the said friar

taverns and houses of ill-repute and go abroad at night to commit burglaries, &c. There was no end of the disturbances at Oxford attributed to Welshmen and Irishmen of this character. C. Headlam, *Oxford* (1904), p. 200.

[3] An ordinance of the council, traceable to 1376, required that none should cross the seas without the king's license (*Cal. Pat.* 50 Ed. III, 312). The statute 5 Ric. II, I, c. 2, required a license of all travellers, except lords, well known merchants and soldiers. In 1389, pilgrims and other travellers to the Continent were

dit frere vient a certeins gentz de Londres et fist une suggestion nient verraie, surmettant qil feusse un wilde Irisshman[4] et ennemy a nostre dit seignour le Roy, et ceo a lentent dauoir ewe soun dit argent et soun liuere appelle porthous,[5] le quel liure unqore il detient et parcelle de soun argent, par cause de quele suggestion il feust prys et commys a prisone et illoeqes il est detenuz en grant duresse, meschief et disease, lou il est loial homme et bien veullant a nostre dit seignour le Roy, come il purra bien prouir sil purra venir a sa respounse. Qe pleise a dit tressage conseil granter et commandre qe le dit pouere Chapellein purra venir deuant vous a respoundre a tout ceo qascun voudra luy surmettre, et sur ceo dordeignir pur sa deliuerance selonc ceo qe semble a voz sages discrecions qe resoun et bone foy demandent pur Dieu et en oeure de charite.

[*Endorsed:* —] Le xxv jour daugst lan etc., second. Accordez estoit par le Conseil en quel Messires le Chaunceller,[6] les Eusqes de Duresme,[7] de Hereford[8] et de Bangor,[9] le Conte de Northumbr',[10] le Tresorer[11] et Mestre Johan Prophet[12] estoient, qe brief soit fait as viscontes de Londres pur deliuerer le suppliant deinz escrit hors de prisone, si par la cause deinz comprise et par nulle autre il soit detenuz en icelle.

ATTE WODE *v.* CLIFFORD[1]

1402–3 Fait a remembrer que en le Parliament tenu a Westminster lendemain de la saint Michel[2] lan du regne du Roy Henri le quart apres le conquest quart Johan atte Wode[3] bailla as seignours et Comuns de mesme le parlement une petticion dount le teneur sensuyt. As tressages seignours[4] et

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restricted to the ports of Dover and Plymouth (*Rot. Parl.* iii, 275).

[4] This was the epithet used by the commons in 1422 when they petitioned the king to exclude all such characters from the realm. The king assented but stipulated that Irish clerks might freely resort to Oxford and Cambridge if they were subjects of his (*Rot. Parl.* iv, 190). Again in 1425 the commons asked that sureties be required of all Irishmen living in England (Ibid. vi, 162, 192).

[5] Porteous, porthose, porthos, etc. Lat. *portiforium*, a portable breviary. E. g. "By God and this Porthors" (Chaucer, Shipman's Tale, p. 135; *New Eng. Dict.*). In 1441 the bishop of Salisbury petitioned the king for a gift of a porthose in two parts (Nicolas, *Pro. of Privy Council*, iv, 141).

[6] Edmund Stafford, bishop of Exeter, chancellor, 1401-03. *Dict. Nat. Biog.*

[7] Walter Skirlawe, 1389–1406.

[8] John Trevenant, 1389–1404.

[9] Richard Yonge, 1400–05.

[10] Henry Percy.

[11] Sir John Norbury, 1399–1403.

[12] First known as a clerk in the office of the privy seal, who from 13 Ric. II was doing the work of clerk of the council, and in 16 Ric. II was called clerk of the council. He was practically the creator of this office (*The King's Council*, p. 364). In 17 Ric. II he was made secondary clerk in the office of the privy seal, and 19 Ric. II received a special honorarium of £100 for his services. He became a member and attendant of the council under Henry IV, 1399–1401, king's secretary, 1402, and keeper of the privy seal, 1406–14. He was dean of Hereford, 1393–1407, dean of York, 1407–16, parson of Ringwood, etc., and finally founded a chapel in Hereford Cathedral (*Cal. Pat.* 2 Hen. V, 226).

[1] *Parliamentary and Council Proceedings* (Chancery), file 48, no. 3. The initial petition is found also in *Ancient Petitions*, no. 1082; it has been used in filling out

went to certain people of London and made an untrue suggestion, submitting that he was "a wild Irishman"[4] and an enemy to our said lord the king, and this with the intention of having had his said money and his book called portas,[5] which he still detains and part of his money; and because of this suggestion he was taken and committed to prison where he is detained in great duress, mischief, and disease, whereas he is a loyal man and a well wisher of our said lord the king, as he can well prove if he can come to answer for himself. May it please the said very wise council to grant and command that the said poor chaplain can come before you to answer to all that anyone will wish to surmise against him, and hereupon to ordain for his deliverance according as it seems to your sage discretions that reason and good faith demand, for God and in way of charity.

[*Endorsed:* —] The 25th day of August, the second year, etc. It was agreed by the council, wherein were my lords the chancellor,[6] the bishops of Durham,[7] Hereford,[8] and Bangor,[9] the earl of Northumberland,[10] the treasurer,[11] and Master John Prophet,[12] that writ should be issued to the sheriffs of London to deliver from prison the suppliant herein written, if he be detained in prison for the cause herein given and for no other.

ATTE WODE *v.* CLIFFORD[1]

1402–3 Be it remembered that in the parliament held at Westminster on the day after Michaelmas,[2] in the fourth year of Henry IV, John atte Wode[3] presented to the lords and commons of the said parliament a petition, the tenor of which is as follows: "To the very wise lords and commons[4] of

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the present text. The petition and its endorsement, which are interesting in certain verbal particulars, are printed in Palgrave, *Original Authority*, p. 71. The present record to the end of the petition is entered also in the *Rot. Parl.* iii, 513, but it is carried only to the point where the case is referred to the council. Nowhere has the record been given before in full.

[2] 30 Sept. 1402. The third parliament of Henry IV.

[3] Att Wode, Atwood, etc. For this prefix to surnames, e. g. atte Grove, atte Gate, atte Well, etc., see *Genealogist* vi, pp. 31, 127. Atte Wode is a family name of Gloucestershire, and it seems likely that this John was a successor of Sir John whose inheritance was reported 15 Rich. II (*Cal. Inq., p. m.*, iii, 132). Petitions are apt to fail in giving the time and place of events, and the present petition makes no mention of the particular properties that were in question. John atte Wode, we know from other sources, was seized of a tenement called Woodland, 3 Hen. IV, in Chedworth manor, a place 16 miles east of Gloucester, an hereditary estate of the Beauchamps. In the restitutions that were afterwards made to the complainants Woodland is mentioned (i. e. Hugh Waterton, *Close Roll*, 5 Hen. IV, m. 11). The late lord of Chedworth manor was Thomas earl of Warwick, who died in 1401, to be succeeded by the young Richard (S. Rudder, *Hist. of Gloucestershire*, 1779, p. 333). Under these conditions the complainants lacked a vigorous defender.

[4] Palgrave (*op. cit.*) points out that the address of the petition as first written was to the king, and afterwards these words were erased and the present address written in. There was a tendency at the time not only to exalt the judicial powers of parliament, but also to give the commons a share in the judicial powers pre-

comuns de ce present parlement. Supplient humblement vos poures oratours Johan atte Wode et Alice sa femme del Contee de Gloucestre qe come deuant ces heures ils misteront une bille a nostre tressouerain seignour le Roy de les diuerses extorcions et oppresions faitz par un James Clifford [5] et un Anselme Gyse[6] a ditz suppliantz, cestassauer qe come ils furont seises de certeins terres et tenemenz a la value de vynt marcs par an en le dit Contee et dautres biens et chateux a la value de cent marcs et plus, le dit Anselme imaginant coment il purroit accroscher a lui les terres tenemenz biens et chateux susditz conspira ouesqe le dit James et autres mesfesours du dit pays les queux par lour faux conspiracion et ymaginacion procurerent un faux enqueste denditer lauant dit Johan de felonie, par colour de quel faux enditement le dit suppliant fut mys en prisone et illeoqs tenuz par trois ans et demy et pluis tanqe il fuist acquite de la felonie suisdit. Et en le mesme temps qe le dit suppliant fuist ensy emprisonez, lauantdit Ancelme par eide et confort de dit James ousta les ditz suppliantz de toutz lours terres et tenementz et eux dispoila de toutz lours biens et chateux suisditz et toutz les ditz terres tenementz biens et chateux ad tenuz et occupiez par vij ans et pluis et tout le boys sur les ditz terres cresceantz ad gaste et destruitz. Sur quey nostre seignour le Roy de sa grace especial considerant les grandes et orribles trespasses oppressions et faux conspiracions faitz as ditz suppliantz par aduys de soun conseil granta une Comission [7] a Johan Berkele [8] chiualer, William Beauchamp [9] chiualer, Richard Ruyall,[10] Thomas Brugge,[11] Robert Poyns,[12] et Robert Whityngton [13] denquerer de les trespasses et oppressions suisditz. Par force de quelle comission les ditz Comissioners firent une session a Gloucestre deuant queux les Baillifs qe furent de lassent et couyne des ditz James et Anselme retorneront un enqueste de ceux qe furont enditours le dit suppliant et de

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viously exercised by the lords alone. In the first parliament of Henry IV, 1399, the commons were reminded that judgments in parliament belonged to the king and the lords, not to the commons, who were to be considered as petitioners and not judges in parliament (*Rot. Parl.* iii, 427). Still the practice continued of addressing petitions to the commons, who then passed them on to the lords. The present petition is endorsed " by advice of the lords and commons."

[5] Representative of a younger branch of the famous Clifford family, descended from Richard a younger brother of Rosamond, mistress of Henry II (G. Oliver, *Cliffordiana*, p. 9; A. Clifford, *Collectanea Cliffordiana* [1877], p. 160). These Cliffords settled in Gloucestershire, making their chief seat at Frampton upon Severn, a manor 8 miles southwest of Gloucester (R. Atkyns, *Gloucestershire* [1768], p. 230). This Sir James was honoured at court; in 1400 as a king's esquire he was granted an annuity of £40 for life (*Cal. Pat.* 191); in 1403 he was made keeper of Caldecote Castle (*Cal. Pat.* 438); he was sometimes a commissioner, and in 1404 a member of parliament for the shire.

[6] Guyse or Guise, member of a well established local family allied with the Cliffords. The Guises were identified with the manor of Elmore which an ancestor of Anselm possessed in the time of Edward I (Atkyns, pp. 230, 324). Anselm held also the manor of Daglingworth at the time of his death (*Cal. Inq., p. m.*, iii, 335). His later wife was Catharine a daughter of James Clifford, with whom he was allied in other cases of the same kind. Gyse was a commissioner of array for Gloucestershire in 1403 (*Cal. Pat.* 440).

[7] This commission, dated 26 August, 1401, was issued to the knights and gentle-

this present parliament. Humbly beseech your poor orators John atte Wode and Alice his wife of the county of Gloucester, that whereas they previously offered a bill to our sovereign lord the king concerning the divers extortions and oppressions committed by one James Clifford [5] and one Anselm Gyse [6] against the said suppliants; that is, while they were seized of certain lands and tenements to the value of twenty marks a year in the said county and of other goods and chattels to the value of a hundred marks and more, the said Anselm, imagining how he might secure for himself the aforesaid lands, tenements, goods and chattels, conspired with the said James and other malfeasors of the said county, who by their false conspiracy and imagination procured a false inquest to indict the aforesaid John of felony; and on the strength of this false indictment the said suppliant was put in prison and there held for three years and a half and more until he was acquitted of the aforesaid felony. And in the meantime while the said suppliant was thus imprisoned, the aforesaid Anselm by aid and comfort of the said James ousted the said suppliants from all their lands and tenements and despoiled them of all their aforesaid goods and chattels, and he has held and occupied all the said lands and tenements, goods and chattels for seven years and more, and the wood growing upon the said lands he has wasted and destroyed. Whereupon our lord the king of his special grace considering the great and horrible trespasses, oppressions, and false conspiracies committed against the said suppliants, by advice of his council granted a commission [7] to John Berkeley,[8] knight, William Beauchamp,[9] knight, Richard Ruyall,[10] Thomas Brugge,[11] Robert Poyns,[12] and Robert Whityngton [13] to inquire concerning the aforesaid trespasses and oppressions. By virtue of this commission the said commissioners held a session at Gloucester, and before them the bailiffs who were of the assent and covin of the said James and Anselm returned an inquest that had been held before those who were indictors of the said suppliant and

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men here named, who were to inquire into the said trespasses and oppressions committed in the time of Richard II and to certify the king and council. *Cal. Pat. Rolls*, 554.

[8] Member of a great family allied with the Beauchamps (Rudder, p. 270 f.; Dugdale, i, 349). This Sir John was justice of the peace and sheriff of Gloucestershire in 1397, commissioner of array in 1399 (*Cal. Pat. Rolls*), and was summoned with other knights to the great council of 1401 (Nicolas, *Proceedings*, i, 160). His seat was Berstone in the hundred of Berkeley (Rudder, p. 283; *Cal. Inq., p. m.*, iv, 117).

[9] Of Powick, constable of Gloucester Castle in 1397, granted 40 marks a year out of the revenues of Gloucestershire in 1400, justice of the peace in 1401, sheriff in 1403 and 1413, and commissioner of every sort. *Cal. Pat. Rolls*.

[10] or Ruyhale, member of various commissions; he held two parts of the manor of Dimock in Gloucestershire. *Cal. Inq., p. m.*, iii, 316.

[11] Bruges or Brigge, of Underhill, sometime commissioner, holder of Horsefeld manor and a half of the manor of Cubberley. *Cal. Pat.* 3 Hen. IV, 32; 9 Hen. IV, 447; *Cal. Inq., p. m.*, iii, 316.

[12] or Poyntz, sheriff of Gloucestershire in 1396, commissioner and custodian, holder of Iron Acton a fief of the late Thomas Earl of Strafford. *Cal. Inq., p. m.*, iii, 249.

[13] or Whittington, son and heir of William Whittington of Pauntley, elder brother of Richard thrice mayor of London

ceux qe feuront seruantz et tenantz de dit Anselme et de ceux qe furont procurez par les ditz James et Anselme et qe a lour custage viendront a dite ville et puis les ditz suppliantz chalangeront celle enqueste par les causes suisdites et pur ceo qe lours chalanges furont trouez verraiez et le dit enqueste fuist fait en fauorable manere pour les ditz James et Anselme et les ditz Johan Berkele et ses compaignons aloueront les chalanges du dit suppliant et ne voudront mys prendre celle enqueste. Et puis a un autre jour les ditz Robert et Robert sanz ascun autre de lour compaignons firont un autre session a lauantdite Gloucestre pur mesme la matire et la pristeront un enqueste de mesmes ceux qe ensi feurent procurez par les ditz James et Anselme et qe a lour custages viendront a mesme la ville et qe furent chalanges e triez hors de lenqueste adeuant par les causes suisditz par eux et par lour compaignons nient allouant a celle foith as ditz suppliantz ascun chalange qils firont pour les causes suisditz le quel matere et gouernance a celle darrein session est bien conuz as ditz Johan Berkele et Richard les queux sont ore en ceste Citee de Londres. Pur quoy vous plese tressage seignours et Comuns de faire venir deuant vous en cest present parlement les ditz Johan Berkele et Richard queux sont ore en Londres et eux examiner sur celle matire et sur ce ordeigner ascun remedie especial pur les ditz suppliantz; Considerantz tresgracious seigneurs et communs qe les officers et Jurours du dit pays sont ensy de la couyne et affinite des ditz James et Anselme et ensi par eux procurez qe les ditz suppliantz james naueront droit deuers eux en celle pays. Et auxi les ditz suppliantz sont ensi enpouerez et anientiz par les orribles trespasses oppressions et faux conspiracions suisditz qils nont rien dont il purront pursuer lour droit eux mesmes ne lours enfantz susteigner si vostre tresgracious eide ne soit en cest present parlement par dieu et en oeure de charite. La quele peticion fuist endorsee par auis des ditz seignours et Communs en ces paroles: Soit envoiez pur Johan Berkele chiualer et Richard Ruyall de vener deuant les seignours de parlement ou deuant le conseil nostre seignour le Roy destre examinez sur la matire comprise en ceste peticion et soit envoiez par brief pur James Clifford et Anselme deinz escritz destre deuant le Conseil du Roy a certein jour et sur certein peine a limiter par mesme le conseil et qe mesme le conseil eit poair par autorite de parlement dent faire droit as parties par aduis et discrecion de mesme le conseil.[14] Par force de quel endorsement briefs seuerals desouz le grant seal feurent adressez as ditz James Clifford et Anselme Gyse destre deuant le conseil a Westminster a les

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(Rudder, p. 598). This Robert was justice of the peace in Gloucestershire, 1399-1408, commissioner of array 1399-1403, one of the great council in 1401, member of parliament in 1403, 1405, 1411, and 1414, sheriff in 1402, the time of the present case, in 1407 and 1412.

[14] At this point the record in the Rolls of Parliament (iii, 513) leaves off. Upon the petition given in Palgrave (p. 71) there is an endorsement not given in the above record, which is translated as follows: "On 15 July, 4 Hen. IV, Sir Henry Malpas one of the masters in the Chancery of our lord the king delivered this petition endorsed to R. Fry near the gate of the

who were servants and tenants of the said Anselm and who had been procured by the said James and Anselm and who had come at their expense to the said town; and then the said suppliants challenged this inquest for the causes above given and for the reason that their challenges were found to be true, and that the said inquest had been held in a manner favourable to the said James and Anselm, and that the said John Berkeley and his companions allowed the challenges of the said suppliant and were entirely unwilling to receive this inquest. And then on another day the said Robert and Robert without any other of their companions held another session at the aforesaid Gloucester upon the same matter, and there took an inquest of the same men who had been thus procured by the said James and Anselm, (men) who at their cost came to the said town and who had previously been challenged and rejected from the inquest by themselves and their companions for the reasons given above, this time without allowing the said suppliants any challenge that they might make for the aforesaid reasons; this matter and grievance at this last session is well known to the said John Berkeley and Richard, who are now in this city of London. Wherefore may it please you very wise lords and commons to have the said John Berkeley and Richard, who are now in London, come before you in this present parliament and to examine them in this matter and thereupon to ordain some special remedy for the said suppliants; considering, very gracious lords and commons, that the officers and jurors of the said county are thus of covin and affinity of the said James and Anselm and have been so procured by them that the said suppliants will never have justice for themselves in this county. Besides the said suppliants are so far impoverished and ruined by the aforesaid horrible trespasses, oppressions, and false conspiracies that they have nothing wherewith they can themselves pursue their right or support their children, unless your very gracious aid be forthcoming in this present parliament, for the love of God and in the way of charity." This petition was endorsed by advice of the lords and commons in the following words: "Let John Berkeley, knight, and Richard Ruyall be sent for to come before the lords of parliament or before the council of our lord the king to be examined in the matter contained in this petition, and let James Clifford and Anselm herein described be sent for by writ to be before the king's council on a certain day and under certain penalty to be determined by the said council, and let the said council have power by authority of parliament to do justice to the parties by the advice and at the discretion of the said council." [14] By force of this endorsement several writs under the great seal were addressed to the said James Clifford and Anselm Gyse to be before the council at Westminster

house of the bishop of Chester in the Strand, where Sir T. Longley then keeper of the privy seal was staying, and the aforesaid Henry testified that this same petition endorsed agrees in all points with the original petition endorsed which remains in the keeping of Sir John Rome clerk of Parliament.

For John atte Wode."

oytaues de seint Hiller [15] delors prochein ensuant chascun de eux sur peine de troiscens marcs pur respondre a ce qe y lour serroit surmys et a faire outre et [receuire ce qe serra ordeinez par le dit] counseil sicome par mesmes les briefs esteans de record en mesme le conseil plus pleinement poet apparoir.[16]

As queles oytaues si bien le ditz Anselme Guyse et James Clifford come le dit Johan atte wode et Alice sa femme comparerent deuant le dit Counsail nostre seignour le Roy en quelle mes seignours lercheuesqe de Canterbirs [17] les euesqes de Nicol [18] Dexcestre [19] Chanceller Dengleterre et de Seint Dauid [20] Tresorer Dengleterre et de Rouchestre [21] et les Countes de Somerset,[22] Northumberland,[23] Westmorland,[24] Wircestre,[25] le gardein de priue seal,[26] le sieur de louell,[27] Johan Skerle,[28] et messires Thomas Erpyngham [29] et Johan Cheyny [30] a celle foit la furent presentez, deuant quelx seignours les parties suisditz bien et duement examinez sur la matere suisdite et tout la dite matere as ditz seignours bien entendu et par eux bien examine sembloit a eux qe les ditz Johan atte Wode et Alice sa femme furent [grev]ousement et encountre la ley oustez de lour terres et tenementz suisditz par lez ditz Aunselme et James. Pur qi toutz lez seignours suisditz qi a celle foitz furent de Counsail nostre seignour le Roy ount ordeignez et agardez par autorite du parlement et par assent de lune partie et de lautre qe eux seyount submys en lour ordynaunce qe le dit Johan atte Wode et Alice sa femme soient restituz as toutz les terres et tenementz suisditz par entre a auoier et tenir a eux et a lour heirs en mesme le manere come ils tenoient deuant le dit ouster quites de ditz Ancelme et Amys sa femme et James et lour heirs a toutz jours discharges de toutz maners de statutz reconusaunce rentchargez et de chescun altre chose par qi les ditz terres et tenementz puissent estre chargez puis le dit ouster. Et qe lez ditz Johan atte Wode et Alice sa femme par force de celle jugement purrount entrer en lez terrez et tenementz suisditz. Et qe ils aueront bref dirige a le viscounte de le Countee suisdit pour eux metter en possession de lez terrez et tenementz suisditz par force del jugement suisditz. Et qe toutz maners feoffementz et estates faitz par le dit Johan atte Wode a Thomas de la Mare,[31] Johan Mene, Thomas Alford persone de leglise de Coulegh,[32] John

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[15] 20 Jan. 1403.

[16] This writ of subpoena addressed to Anselm Gyse is annexed to the original petition (*Anct. Pet.* 1082) and is given at length in Palgrave (*op. cit.* p, 71.) The initial clause contains an extra phrase so as to read, Quibusdam certis de causis coram nobis et consilio nostro *in presenti parliamento* propositis, etc.

[17] Thomas Fitzalan or Arundel, 1397–1414.

[18] Henry Beaufort, 1398–1405.

[19] Edmund Stafford chancellor, 1401–03.

[20] Guy Mone treasurer, 1402-03.

[21] John Bottlesham, 1400–04.

[22] John Beauford, d. 1410.

[23] Henry Percy, 1342–1408.

[24] Ralph Neville, 1364–1425.

[25] Thomas Percy, d. 1403.

[26] Thomas Langley keeper, 1402-05.

[27] John (Dugdale, i, 559). He had been in the council of Richard II from time to time since 1392, was keeper of the privy seal in 1403, one of the council named in parliament in 1404, and again in 1406, but was allowed to withdraw (*King's Council*, pp. 134, 153, 156).

[28] A clerk in the chancery, from 1384–

in the octaves of the following Hilarymas,[15] each of them under penalty of 300 marks to answer to that which shall be alleged against them and to do further and [receive that which shall be determined by the] council, just as can be made more plainly apparent by the said writs which are of record in the said council.[16]

Upon this day the said Anselm Gyse and James Clifford as well as the said John atte Wode and Alice his wife appeared before the said council of our lord the king, wherein my lords the archbishop of Canterbury,[17] the bishop of Lincoln,[18] the bishop of Exeter,[19] chancellor of England, the bishop of St. David's, [20] treasurer of England, and the bishop of Rochester,[21] the earls of Somerset,[22] Northumberland,[23] Westmoreland,[24] the earl of Worcester,[25] the keeper of the privy seal,[26] Lord Lovell,[27] John Scarle,[28] and Sir Thomas Erpyngham [29] and John Cheyney [30] at this time were present. Before these lords the aforesaid parties were well and duly examined in the abovesaid matter and after the whole matter had been well understood and well examined by the said lords it seemed to them that the said John atte Wode and Alice his wife had been grievously and contrary to law ousted from their aforesaid lands and tenements by the said Anselm and James. Wherefore all the aforesaid lords who were at this time of the council of our lord the king have ordained and awarded by authority of parliament and with the assent of both parties, who have submitted to the ordinance (of the council), that the said John atte Wode and Alice his wife should be restored to all the aforesaid lands and tenements, to have and to hold for themselves and their heirs in the same manner as they held them before the said ejectment, quit of the said Anselm and Amice his wife, and James and their heirs, forever discharged of all manner of statutes, recognisances, rent charges, and of every other thing whereby the said lands and tenements might be charged since the said ejectment. And that the said John atte Wode and Alice his wife by force of this judgment shall be able to enter into the aforesaid lands and tenements. And that they shall have a writ directed to the sheriff of the aforesaid county to put them in possession of the aforesaid lands and tenements by force of the said judgment. And that all sorts of enfeoffments and estates made by the said John atte Wode to Thomas de la Mare,[31] John Mene, Thomas Alford parson of the church of Cowley,[32] John Bas parson of the church of Shipton-

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94, clerk of parliament, sometime receiver of petitions (*Rot. Parl.* iii, 133, 184, etc.), in 1396 keeper of the great seal, in 1399 chancellor and member of the council, 1399–1403 (*Cal. Pat. Rolls;* Nicolas, i).

[29] A servant of the dukes of Lancaster, chamberlain of Henry IV and member of the council. Under Henry V he became admiral of the fleet and steward of the household.

[30] or Cheyne, knight of the shire for Gloucestershire in 1399, and speaker-elect of the house, justice of the peace in 1404 (*Cal. Pat. Rolls*, 517), member of the king's council, 1399–1406, summoned to the great council in 1401 (Nicolas, ii, 99).

[31] He is on record as holding a remainder in the estate of the late Peter de la Mare in Herefordshire (*Cal. Pat.* 1 Hen. IV, 349), but what interest he or the others here mentioned had in the estate now in question is not clear.

[32] A parish on the Churn in East Gloucestershire, 4½ miles southeast of

Bas persone de leglise de Shipton Olyue,[33] dez ditz terres et tenementz auantditz soient voides et de nulle value. Et qe toutz altres feffementz et estates et grauntes faitz par les ditz Thomas de la Mare, Johan Mene, Thomas Alford, Johan Bas ou par ascun autre de les terres et tenementz suisditz a Ancelme Guyse e Amys sa femme ou a ascun altre soient voides et de nulle value. Et qe toutz feffementz faitez par le dit Anselme et Amys sa femme ou par le dit Ancelme soul a Hugh Waterton [34] ou a ascun altre de lez terres et tenementz suisditz et auxint toutz altres feffementz charges et toutz states faitez de ditz terres et tenementz puis le dit feffement fait par le dit Johan atte Wode a Thomas de la Mare Johan Mene Thomas Alford et Johan Bas tanqe al jour de celle jugement rendu soient voidez et de nulle value. Et auxi qe si ascun feffement ou graunde soit fait parascunnes des ditz terres et tenementz en temps auener deuant ceo qe le dit Johan atte Wode et sa femme soient possessionez dez ditz terres et tenementz par force de agarde et jugement suisditz qe ils soient voidez et de nulle value. Et qe les ditz Ancelme et Amys sa femme parentre cy et lez oytaues de seint Michel proschein auener relesseront par fyn leue en la Court nostre seignour le Roy as ditz Johan atte Wode et Alice sa femme par force de celle jugement esteiant en peisible possession de lez terres et tenementz suisditz tout le droit qils ount en lez terres et tenementz suisditz a eux et a lez heirs de dit Johan toutz jours de eux et de lez heirs de dit Ancelme a toutz jours as costages de dit Ancelme. Et auxi qe lez ditz James et Ancelme ferront Monsire Hugh Waterton chivaler William Rye de Munmouth et William Guyse fitz a dit Ancelm et toutz autres gentz qe ount ewe estat ou ascun altre interesse en les ditz terres et tenementz puis le dit ouster fait as ditz Johan atte Wode et Alice sa femme relesser a dit Johan atte Wode et Alice sa femme et a lez heirs le dit Johan tout le dreit qe ils ount en lez terres et tenementz suisditz. Et auxi qe les ditz James et Ancelme deliueroumt as dit Johan atte Wode et Alice sa femme toutz les chartres et munymentz qe ils ount ou qe ascun altre ad ou auoient a lur oeps ou al oeps le dit Ancelme ou sa femme puis louster fait as dit Johan atte Wode et Alice sa femme touchant les terres et tenementz suisditz parentre cy et les ditz oeptas de Seint Michel. Et quant a lez biens et chateux du dit Johan atte Wode prises emportes amenez et encariez et issuez et profitez des ditz terres et tenementz prouenauntz et damages qe eux lez ditz Johan et Alice ount sustenuz puys le dit ouster les ditz seignours en le dit Counsaill ount done jour outre a lez parties suisditz destre cy deuant le dit Counsail al Oeptas de seint Michel proschein veignant pour faire et receyure ceo qe par le dit Counsaill ent serra ordeignez et agardez par autorite de parlement. Et pour ceo qe lez seignours qi a cele foitz furent de Coun-

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Cheltenham. A church of Early English architecture still remains.

[33] A parish 7 miles southeast of Cheltenham, next to Shipton Sollars.

[34] Councillor of Henry IV (Nicolas, i), constable of Windsor Castle (*Cal. Pat.* 6 Hen. IV, 489), holder of estates in Lincolnshire, Herefordshire, and Gloucester-

Olive [33] of the said lands and aforesaid tenements shall be null and void. And that all other enfeoffments and estates and grants made by the said Thomas de la Mare, John Mene, Thomas Alvord, John Bas, or by anyone else of the aforesaid lands and tenements to Anselm Gyse and Amice his wife or to anyone else shall be null and void. And that all enfeoffments made by the said Anselm and Amice his wife or by the said Anselm alone to Hugh Waterton [34] or to anyone else of the aforesaid lands and aforesaid tenements and also all other enfeoffments, charges, and all estates of the said lands and tenements made since the said enfeoffment by the said John atte Wode to Thomas de la Mare, John Mene, Thomas Alford, and John Bas before the day of this judgment shall be rendered null and void. And also that if any enfeoffment or grant shall have been made in the future by any persons of the said lands and tenements, before the said John atte Wode and his wife shall be in possession of the said lands and tenements, by force of the aforesaid award and judgment they shall be null and void. And the said Anselm and Amice his wife between now and the octaves of next Michaelmas shall by fine made in the court of our lord the king release to the said John atte Wode and Alice his wife, who by force of this judgment shall remain in peaceable possession of the aforesaid lands and tenements, every right which they may have in the aforesaid lands and tenements, to them and the heirs of the said John, from them and the heirs of the said Anselm forever, at the cost of the said Anselm. And also the said James and Anselm shall cause Sir Hugh Waterton, knight, William Rye of Monmouth and William Guyse, son of the said Anselm, and all other men who have had estate or any other interest in the said lands and tenements since the said ejectment was made of the said John atte Wode and Alice his wife, to release to the said John atte Wode and Alice his wife and to the heirs of the said John all the right that they have in the aforesaid lands and tenements. And also that the said James and Anselm, between now and the said octaves of Michaelmas, shall deliver to the said John atte Wode and Alice his wife all the charters and muniments, touching the aforesaid lands and tenements, that they have or that anyone else has or may have for their own use or for the use of the said Anselm or his wife since the ejectment of the said John atte Wode and his wife. And as to the goods and chattels of the said John atte Wode that have been taken, removed, borne off and carried away, the issues and profits accruing from the said lands and tenements and damages that the said John and Alice have sustained since the said ejectment, the said lords in the said council have given a day further for the aforesaid parties to be here before the said council at the octaves of next Michaelmas to do and receive whatever shall be ordained and adjudged by the said council by authority of parliament. And because the lords who were at this time of our lord the king's council had not

shire (*Cal. Inq., p. m.*, iii, 332). Waterton afterwards relinquished to John atte Wode and his wife all claims to lands in Wodeland (*Close Roll*, 5 Hen. IV, m. 11).

saill nostre seignour le Roy ne furent mys pleinement enfourmez queux bienz et chatelx lez ditz James et Ancelme auoient pris de dit Johan atte Wode ne queux issuz et profitez ils auoient prises des ditz terres et tenementz puys louster suisdit ne quelx damages les ditz Johan atte Wode et Alice sa femme auoient sustenuz puys le dit ouster ils agarderont et ordaigneront qe un commission issereit a monsire Johan de Berkeley monsire Morys Russell[35] monsire Walter Hungerforde[36] chiualers Thomas Brugge, Johan Gybbes, et Johan Gerald denquerer et eux certifier del value des bienz et chateux issuez profites et damages suisditz et de touz autres wastes trespas a dit Johan atte Wode et Alice sa femme par lez ditz Ancelme et James faitz.[37] Et outre ceo toutz les seignours qi a celle foith furent presentez en le dit Counsaill nostre seignour le Roy doneront jour outre a lez parties suisditz destre deuant le dit Counsaill nostre seignour le Roy al Oeptaues de seint Michel larchangele proschein ensuwant pour faire et receuire ceo qe par le dit Counsaill nostre seignour le Roy ent serra ordeignez et agardez par autorite de parlement. Et les ditz seignours ount agardez qe les ditz Johan atte Wode et Alice sa femme et lour heirs aueroumt les ditz terrez et tenementz en pees en temps auener sauns estre oustez molestez ou greuez par les ditz James ou Ancelme ou par ascun en lour noune assent ou abettement. Et a toutz les agardez et ordeignauncez suisditz tener et perempler les ditz James et Ancelme serrount obligez etc., a dit Johan atte Wode en CC li. par reconusaunce en la Chauncellarie nostre seignour le Roy.[38]

[*Endorsed:* — (*1*)] Pur Johan attewode.
Soit cest record lieuz en presence der Justices avant quil soit engrossez.

[(*2*)] Fait a remembrer qe le xxiij jour de Juyn lan etc. quart ceste Recorde estoit baillez au Counsail par les mains de Thomas Tyldesley un des sergeantz du Roy a la ley, presentz alors en mesme le Counsail messours le Chanceller, Gardein du priue seal, [messires] T. Erpyngham, H. Waterton et J. Cheyne. Et le xxvij jour du dit moys de Juyn esteantz les [ditz] seignours et le Tresorer dengleterre ensemble ouesqe les Justices de lun Banc et de lautre, et le chief Baron de leschequier en la Chambre joignante a mesme leschequier,[39] ceste mesme Recorde estoit baillee et deliueree par mes ditz seignours du Counsail a les auantditz Justices pur veoir et examiner si ce soit legitement fait, lesqueux Justices sassenterent alors pur veoir et examiner loriginale peticion par le dit Johan atte Wode baillee en parlement ouesqe lendorsement de mesme la peticion, et ceste Recorde auxi ensemble, et ent faire relation au dit Counsail de lour auis.[40] Et apres cestassauoir le xv jour de Juillet delors prochain ensuant, mon dit seignour

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[35] Commissioner of the peace in Herefordshire, 1402, commissioner of array and of the peace in Gloucestershire, 1403 (*Cal. Pat. Rolls*), a knight for the latter shire in parliament, 1402 and 1403, and sheriff in 1406. He held the manor of Durham (Rudder, p. 428; *Cal. Inq., p. m.*, iv, 136).

[36] Later Lord Hungerford. *Dict. Nat. Biog.*

been fully informed what goods and chattels the said James and Anselm had taken of the said John atte Wode, or what issues and profits they had taken from the said lands and tenements since the aforesaid ejectment, or what damages the said John atte Wode and Alice his wife had sustained since the said ejectment, they adjudged and ordained that a commission should be issued to Sir John Berkeley, Sir Morris Russell,[35] Sir Walter Hungerford,[36] knights, Thomas Brugge, John Gibbs, and John Gerald to enquire and to certify as to the value of the aforesaid goods and chattels, issues, profits, and damages, and all other wastes and trespass committed upon the said John atte Wode and Alice his wife by the said Anselm and James.[37] Moreover all the lords who at this time were present in the said council of our lord the king gave a day further for the said parties to come before the said council of our lord the king at the octaves of next Michaelmas and receive what shall be ordained and awarded by the said council of our lord the king by authority of parliament. And the said lords have adjudged that the said John atte Wode and Alice his wife and their heirs shall have the said lands and tenements peacefully in future without being ousted, molested or aggrieved by the said James or Anselm or by anyone in their name, with their assent or abetting. And to observe and fulfill all the aforesaid judgments and ordinances the said James and Anselm shall be obliged, etc., to the said John atte Wode to (the amount of) £200 by recognisance in the chancery of our lord the king.[38]

[*Endorsed:* — (*1*)] For John atte Wode.

Let this record be read in the presence of the justices before it is engrossed.

[(*2*)] Be it remembered that on the 23d day of June, the fourth year, etc., this record was delivered to the council by the hands of Thomas Tildesley one of the king's serjeants at law, there being then present in the said council the chancellor, the keeper of the privy seal, [Sirs] T. Erpingham, H. Waterton, and J. Cheyney. And on the 27th day of the said month of June in the presence of the [said] lords and the treasurer of England together with the justices of both benches and the chief baron of the exchequer, in the chamber adjoining the said exchequer,[39] this same record was brought and delivered by my said lords of the council to the aforesaid justices to view and examine whether it was legitimately made; and the justices then consented to view and examine the original petition presented by the said John atte Wode in parliament with the endorsement upon the said petition as well as this record, and to make report to the said council of their advice.[40] And after the 15th day of July then following, my lord

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[37] This commission was issued 18 July, 1403. *Cal. Pat.* 4 Hen. IV, 284.

[38] As to the outcome of the affair see Introd., p. cvi.

[39] The star chamber is often designated in these words. *King's Council*, pp. 355 f.

[40] Upon the position of judges in the king's council, whether as members or advisers, see ibid. pp. 75 f., 207. Another instance of the justices being asked for advice is in Nicolas, i, 80.

le Chanceller apporta ouesqe lui yce mesme recorde en le consail et y reporta qe les susditz Justices lauoient veuz et examinez, et qe lour semble ycelle recorde estre ben suffissant et legitement fait.

LEGAT AND ANOTHER *v.* WODEWARD[1]

A

1410 Please a notre tressoueraigne Seigneur le Roy de vous remembrer coment le vintisme iour de may derrein passe de votre grace especial grantastez de voz Escuierz Helmeyn Legat[2] et William Loueneye[3] le garde del manoir de Bobbyngeworth[4] ensemblement oue lavouson del Eglise de Bobbyngeworth durant le non age Thomas le fitz et heir Thomas Enfeld[5] et ensy de heir en heir tancqe acun dez ditz heirz a son playn age aueigne sanz rienz ent a vous rendre, la quele garde a vous appartient par cause de meindre age du dit Thomas fitz Thomas Enfeld et la quele garde votre chaunceller par bille de votre tresorer ad comys par voz letters patentz a William Wodeward fundour[6] et Anneys sa femme[7] durant le non age du dit heir.[8] Et pour ce tresgracious Seigneur please comaunder votre Chaunceller affaire as ditz Helmyn et William Loueneye voz lettres patentz, del garde del manoir et auouson suisditz del date de votre dite primer grant et de annuller et repeller lez ditz lettres patentz par votre dit chaunceller as ditz William Wodewarde et Anneys ent faitz pour dieu et en oevre de charite.

B

. . .[9] de et super billa in dictum parliamentum[10] exhibita et huic cedule consuta et per dictum consilium domini [Regis] . . . ones hanc subsequen-

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[1] *Parliamentary and Council Proceedings* (Chancery), file 13, no. 17, in two membranes: A the petition, B the certification of an examination before the treasurer and barons in the exchequer. The petition is also found in *Ancient Petitions*, no. 11,504.

[2] A faithful servant of Henry IV, noticed in 1399 as a king's esquire with an annuity of £20 (*Cal. Pat. Rolls*, 64). In 1401 he was granted a tun of wine yearly out of the king's prise in the port of Colchester (ibid. 12). He was usher of the king's chamber in 1405 (ibid. 501), sheriff of Essex in 1402 and in 1407, escheator in Essex and Hertfordshire in 1403, commissioner of array in 1403, justice of the peace in Essex, 1404–06, member of parliament for Essex in 1406, surveyor in the port of Colchester in 1411. He acquired through his wife, Alice Mandeville, various properties of the latter family in Essex (Morant, *Hist. of Essex*, ii, 75, 84), and by the further favour of the king was made custodian of various estates, of which the manor of Bobbingworth now in dispute was one.

[3] or Loveney, an old servant of the dukes of Lancaster, whose household accounts have been published in Wylie, *Reign of Henry IV*, iv, 159, 163, 168. From 1399 to 1408 he was keeper of the great wardrobe. He was justice of the peace in Middlesex from 1404, and in Essex from 1412, sheriff in Essex in 1408 and escheator in 1411, and keeper of the king's ships in 1412. Like Legat he was in many instances custodian, commissioner, and purveyor. His death is mentioned in 1424 (*Cal. Pat. Rolls*).

[4] Lying west of Shelley in Ongar. It came ultimately into the hands of John de Vere earl of Oxford. Morant, i, 147.

[5] A tenant in chief whose death is mentioned in 1405 (*Cal. Pat.* 58). Besides Bobbingworth he left also a messuage in

the said chancellor brought with him this record here into the council and reported that the aforesaid justices had viewed and examined it, and that it seemed to them this record was quite sufficient and legitimately made.

LEGAT AND ANOTHER *v.* WODEWARD [1]

A

410 May it please you our lord the king to remember how on the twentieth day of last May by your special grace you granted to your squires Helming Legat [2] and William Lowney [3] the custody of the manor of Bobbingworth [4] together with the advowson of the church of Bobbingworth during the nonage of Thomas son and heir of Thomas Enfield [5] and so from heir to heir until one of the said heirs arrives at full age, without rendering anything to you for it; this guardianship belongs to you because of the minor age of the said Thomas son of Thomas Enfield, and your chancellor by bill of your treasurer has committed it by your letters patent to William Wodeward "founder,"[6] and Agnes his wife[7] during the nonage of the said heir.[8] Wherefore, very gracious lord, may it please you to command your chancellor to issue to the said Helming and William Lowney your letters patent for the custody of the aforesaid manor and advowson and to annul and revoke the said letters patent issued by your said chancellor to the said William Wodeward and Agnes. (This do) for God's sake and in work of charity.

B

. . . [9] of and concerning the bill presented to the said parliament,[10] following this schedule and . . . by the said council of the lord [the king] . . .

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the manor of Fyfield which was put in the custody of William Woodward and his wife mentioned below (ibid. 275).

[6] A citizen of London and member of the Founders' Company. In 1414 Henry V commissioned him to take copper, bronze, iron, and other metals for making guns, to gather charcoal and saltpeter, to bring together workmen and compel their services for the king's expedition. *Cal. Pat.* 2 Hen. V, 292; *Cal. Letter-books*, K, 27.

[7] She was a kinswoman of the late Thomas Enfield. *Cal. Pat.* 8 Hen. IV, 275.

[8] This grant of Bobbingworth is missing, but it was probably similar to the grant just mentioned of the messuage in Fyfield, dated 24 Nov. 1406. By an agreement with the treasurer, Thomas Neville, who issues a warrant to the chancellor, William and his wife are put under bonds to render a fixed sum yearly for the estate during the minority of the heir, maintaining him and providing for his marriage without disparity, and keeping up the property without waste. Ibid.

[9] The entire upper left-hand corner of the membrane is torn away, but the tenor of the record is easily followed nevertheless.

[10] There is no record of such a bill in the *Rolls of Parliament*, but from what follows we learn that a counter-suit was begun by William and Agnes, who presented a petition in parliament complaining that they had been removed. By authority of parliament the matter was given to the council, which caused the following examination to be made in the exchequer. On this procedure see Introd., p. xliv.

tem facimus reportacionem videlicet quod Willelmus Loueney duodecimo die Iunii [ultimo preterito vocatus] personaliter comparauit et de modo [per]quisicionis siue impetracionis literarum patencium domini Regis eidem Willelmo . . . [factarum anno re]gni domini Regis nunc decimo de manerio de Bobbyngworth unacum advocacione ecclesie de Bobbyngworth . . . alios nomine suo obtent' siue persequt' examinatus respondet sic. Sires, I made no pursuite for that patente . . . ement. And I trowe that the kyng wolde not haue bede me and charged me to haue pursuyd it bute hit hadde . . . resonable. And there, Sires, I pray yow if hit semeth to the kyng and his wise Counsaille that the patente be laweful and resonable that the patente may stonde in strengthe. And if it semeth to the kyng or to his wise Counseille that the patente be unlaweful and unresonable, I wolde as gladly leve it and all the benefite ther of as euere I was glad to take it. Et Helmingus Legat postea videlicet duodecimo die Iunii ultimo preterito vocatus et super premissis omnibus et singulis similiter examinatus respondet et dicit in omnibus prout predictus Willelmus Loueney superius dixit. Et ulterius dicit idem Helmingus quod postquam predicte litere patentes facte fuerunt prefato Willelmo Loueney et sibi, ipse ad instanciam et supplicacionem Iohannis Asshele [11] Chiualer relaxauit totum statum suum quem ipse pretextu dictarum literarum Regis patencium habuit in eisdem cuidam Iohanni Habhale uni valectorum predicti Iohannis Asshele, etc. Et Willelmus Wodeward et Agnes uxor ejus similiter vocati venerunt [personaliter] quartodecimo die Iunii ultimo preterito, et dicunt quod in parliamento domini Regis Anno regni suo primo apud Westmonasterium edito ordinatum fuit et stabilitum quod [illi] qui extunc peterent de Rege terras tenementa redditus officia annuitates seu alia proficua quecumque facerent expressam mencionem in peticionibus suis de valore rei sic petende et eciam de omni eo quod ipsi antea habuerunt de dono Regis progenitorum siue predecessorum suorum, et in casu quo ipsi non facerent talem mencionem in peticionibus suis predictis et hoc debite probato essent tales litere Regis patentes inde facte minime valentes nec alicuius vigoris vel effectus set de toto reuocarentur et adnullarentur pro omni tempore futuro in punicionem illorum qui ita fecerunt in decepcionem Regis tanquam illis qui non sunt digni gaudere effectu et beneficio literarum patencium eis in hac parte concessarum prout in statuto p[redicto] plenius continetur.[12] Et dicunt quod predictus Willelmus Loueney habuit de dono domini Regis die confeccionis dictarum literarum Regis patencium sibi et predicto Helmingo factarum xl marcas annuatim percipiendas de firma ville de Kyngeston ac unam marcam annuatim percipiendam de ducatu Lancastr' et decem marcas annuatim percipiendas de Hundredo de Holton in Comitatu Norff.' Et quod predictus Helmingus similiter habuit dicto die confeccionis literarum Regis patencium supradictarum de dono domini Regis viginti libras annuatim [13] ad Receptam Scaccarii percipiendas . . . annuatim percipiend'

here following, we report to the effect that William Lowney [having been called] on the twelfth day of [last] June appeared in person, and being examined in regard to the method whereby he acquired or sought letters patent of the lord the king [granted] to the said William . . . in the tenth year of the reign of the present lord the king concerning the manor of Bobbingworth together with the advowson of the church of Bobbingworth . . . obtained or acquired in his name, he answered as follows. " Sirs, I made," etc. [*See opposite page.*]

Thereupon Helming Legat on the same twelfth day of last June was called, and being similarly examined with regard to all and each of the premises he responded, saying in all points the same as William Lowney had already said. Furthermore, the said Helming says that after the said letters patent had been issued to the aforesaid William Lowney and himself, at the instance and supplication of John Ashley,[11] knight, he had released every claim that he had in the said (properties) by virtue of the said letters patent of the king, to a certain John Habhale, one of the servants of the aforesaid John Ashley, etc. And William Wodeward and Agnes his wife were similarly called, and came in person on the fourteenth day of last June, saying that in the parliament of the lord the king held at Westminster in the first year of his reign, it had been ordained and made statute that whoever should petition the king for lands, tenements, revenues, offices, annuities or any other profits whatsoever should make in their petitions express mention of the value of the thing sought for and also (make mention) of everything that they have had before by gift of the king, his ancestors or predecessors, and in case they failed to mention these things in their said petitions, when this was duly proved, such letters patent as may have been issued to them should be of no value, validity or effect but should be entirely revoked and annulled for all the future, to the punishment of those who have done this to the deception of the king as persons who are not worthy to enjoy the effect and benefit of the letters patent granted to them in this part, according to what is given more fully in the aforesaid statute.[12] And they say that the aforesaid William Lowney, on the day that the said letters patent of the king granted to him and the aforesaid Helming were issued, (already) had by gift of the king 40 marks a year derived from the ferm of the town of Kingston, also one mark a year derived from the duchy of Lancaster, and ten marks a year derived from the hundred of Holton in the county of Norfolk. And (they say) that the aforesaid Helming likewise on the said day when the aforesaid letters patent were issued by gift of the lord king had twenty pounds a year[13] at the receipt of the exchequer received an-

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[11] or Assheley, known in 1399 as a king's esquire, and in 1401 as a king's knight, retained at an annuity of £100 (*Cal. Pat.* 68, 473). In 1408 he was sent in the king's service to Ireland (ibid. 470), and at various times was commissioner and custodian.

[12] This enactment is in *Rot. Parl.* iii, 433.

[13] This was a grant of 5 Nov. 1399. *Cal. Pat.* 1 Hen. IV, 64.

de extenta custodie manerii de Cressyche[14] cum pertinenciis in comitatu Salop' prout patet de recordo in quo casu predicte litere Regis patentes [predictis Willelmo et] Helmingo ut premittitur facte fuerunt et sunt reuocabiles et minus valentes etc. petentes predicti Willelmus Wodeward et Agnes quod . . . hentur etc. videlicet quantum ipsi et eorum uterque tempore confeccionis literarum Regis patencium supradictarum . . . Regis ultra id quod in predictis literis Regis patentibus eis ut premittur factis continetur. Et si . . . ad statutum predictum v . . . contemptus tunc quod predicte litere Regis patentes de data . . .[15] Regis huius . . . ex aliis causis notabil' . . . annex' content' reuocentur et adnullentur. Et quod litere Regis patentes de data v[icesimi secundi[16]] diei Maii eisdem Willelmo et Agneti de custodia predicta . . . et ulterius quod sibi fieri juxta ordinacionem et advisamentum consilii dicti domini Regis auctoritate parliamenti in hac parte quod de iure fuit faciendum . . . nos prefatos Thesaurarium et Barones a prefatis Willelmo Loueney et Helmingo a tempore confeccionis literarum Regis patencium supradictarum de data . . . aliquid de dono Regis aliud quam in eisdem literis Regis patentibus continetur habuerunt seu eorum alter habuit . . . [ne] potest dedicere quin ipsi tempore confeccionis literarum Regis patencium [supradictarum . . . de dono] Regis ultra omnia in dictis literis Regis contenta omnes et singulas annuitates supradictas per predictos Willelmum et Agnetem uxorem ejus s[uperius] declaratas etc. Quibus quidem examinacionibus supradictis per nos prefatos Thesaurarium et Barones ut premittitur captis responsionibusque parcium predictarum supradictis auditis . . . tabilibus in predictis literis Regis patentibus prefatis Helmingo et Willelmo Loueney factis videtur tam nobis prefatis Thesaurario et Baronibus quam Iusticiariis de domino Rege nobiscum existentibus predictas literas Regis patentes eisdem Willelmo Loueney et Helmingo de data vicesimi diei Maii . . . factas ex causis superius specificatis fore reuocandas aliasque literas Regis patentes prefatis Willelmo Wodeward et Agneti uxori sue ut premittitur factas valentes . . . dictus Willelmus Loueney per nos prefatos Thesaurarium et Barones si ipse sciat de veritate dicere utrum predicte litere Regis patentes de data vicesimi diei Maii sibi et prefato Helmingo facte sigillate fuerunt antequam predicte litere Regis patentes predicto Willelmo Wodeward et Agneti uxori sue de data vicesimi secundi diei Maii facte sigillate fuerunt vel postea, qui dicit super sacramentum suum quod . . . intendit in consciencia sua quod predicte litere patentes predictis Willelmo Wodeward et Agneti uxori sue facte et sigillate fuerunt antequam predicte litere Regis

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[14] This was a grant made in 1402, and worth £20 a year. *Cal. Pat.* 4 Hen. IV, 64.

[15] This grant of 20 May, 1402 is in Ibid. 11 Hen. IV, 231.

[16] These letters are mentioned in Ibid. 12 Hen. IV, 240; also in *Fine Roll,* 10 Hen. IV, m. 8.

nually [from] . . . [and] . . . received annually from the income of the custody of the manor of Cressage [14] with appurtenances in the county of Shrops, as appears from the record, wherefore the aforesaid letters patent granted to [the aforesaid William and] Helming, as described above, were and are revocable and invalid, etc., while the aforesaid William Wodeward and Agnes petition that . . . that is, whatever the two or either of them at the time the aforesaid letters patent of the king were issued . . . of the king further that which is contained in the aforesaid letters patent granted to them as has been described. And if . . . to the aforesaid statute . . . contempt, then that the aforesaid letters patent of the date [20 May, 11th year [15]] of this king . . . notable for other causes . . . contained in . . . annexed shall be revoked and annulled. And that the king's letters patent dated the [twenty-second [16]] day of May . . . in regard to the aforesaid custody [granted] to the said William and Agnes, and furthermore that according to the ordinance and advice of the council of the said lord king by authority of parliament there should be done for them what rightfully ought to have been done . . . us the aforesaid treasurer and barons by the aforesaid William Lowney and Helming from the time that the aforesaid letters patent of the king dated . . . were made . . . the two of them had or one of them had something by gift of the king other than what is contained in the said letters patent of the king . . . [nor] can it be denied that at the time the aforesaid letters patent were granted . . . they [were receiving by gift] of the king besides all the things described in the said letters of the king and each of the aforesaid annuities, as declared above by the aforesaid William and Agnes his wife, etc. The aforesaid examinations then having been conducted by us, the aforesaid treasurer and barons, as has been previously described, and the responses of the aforesaid parties having been heard . . . in the aforesaid letters patent of the king granted to the aforesaid Helming and William Lowney, it seems right to us the aforesaid treasurer and barons as well as the justices of the lord the king remaining with us that the aforesaid letters patent of the king granted to the said William Lowney and Helming dated the twentieth of May . . . for the causes specified above should be revoked and that other valid letters patent of the king should be granted to the aforesaid William Wodeward and Agnes his wife, as has been previously described, . . . [and that] the said William Lowney [having been asked] by us the aforesaid treasurer and barons whether he can truly tell whether the aforesaid letters patent of the king dated the twentieth day of May that were granted to him and the aforesaid Helming were sealed before the aforesaid letters patent granted to the aforesaid William Wodeward and Agnes his wife, and dated the twenty-second day of May had been sealed or afterwards; and he says upon his oath that . . . he understands in his conscience that the aforesaid letters patent granted to William Wodeward and Agnes his wife were sealed before the aforesaid letters patent granted to himself and

[illegible] eis ex premissis. [illegible] Que omnia et singula [illegible] consilio [illegible] Regis [illegible] per presentes.[7]

WYTHUM v. MEN OF KAMPEN[1]

1361 A [illegible] seignur le Roy [illegible]

Supplie humblement Hugh de Wythum[2] de Boston, qe come [illegible] en sa nief [illegible] portz de Pruce [illegible] gentz del ville de Campe [illegible] par sept semaignes [illegible] dit suppliant [illegible] la dit nief [illegible] les dites gentz de Campe a lour volunte [illegible] le dit suppliant [illegible] damages [illegible] de CCCL li. [illegible] a Boston [illegible] de Seint Botolf [illegible] la dit ville de Boston [illegible] Norway [illegible] de la dite ville de Campe [illegible] venuz en la dit ville de Boston. Qe please a vos [illegible] de graunter un brief as baillifs de Boston [illegible] de Campe [illegible] a dit suppliant des [illegible] et damages [illegible] pur dieu et en oevre de charite.

Endorsed:— [illegible] Chancellarium [illegible] Novembris anno xxxv.[3]

Le quinzisme jour de Novembre lan, etc., xxxv. Accorde est par le conseil q commissioun desouz le grant seal soit adresse a Robert Thorpe[4] et William Skipwith[5] justices, pur faire [illegible] les parties [illegible] de ceste peticion [illegible] deux parties, et facent [illegible] au conseil du Roy de ce quils averont fait en celle partie.[6]

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[1] The enrolment of the [illegible] from [illegible] which [illegible] William [illegible] with [illegible] had been [illegible] before the council [illegible] with the [illegible] William and [illegible] Rot. [illegible]

[illegible]

[illegible] Rot. [illegible]

[2] Wythum or Withum, a family prominent in the history of Boston for two centuries. Hugh the father of the present petitioner was a member of the Corpus Christi Gild and alderman in [illegible] and [illegible]. The present Hugh [illegible] the same [illegible] in [illegible]. It was perhaps a son of the latter who is mentioned as Hugh son of Hugh [illegible] in the same connection in [illegible]. In [illegible] there was one Sir Hugh [illegible] Thompson, Hist. of Boston [illegible] The [illegible] was a commissioner

the aforesaid Helming had been seized. All these things and each of them we certify to the excellent and discreet council of the lord the king by the present (writing)."

WYTHUM v. MEN OF KAMPEN[1]

1418 To the very honourable and very sage council of the king our sovereign lord.

Humbly beseecheth Hugh of Wythum[2] of Boston that whereas a ship of his named Gabriel while lying in parts of Prussia was there arrested without reasonable cause at the suit of certain men of the town of Kampen and was there detained under arrest for more than seven weeks, until the attorneys and deputies of the said suppliant who were with the said ship, in order to have deliverance of the said ship, made fine with the said men of Kampen at their will, whereby the said suppliant has been put to costs and damages of more than £300; for if the said arrest had not occurred his said ship would have come with The Grace of God to Boston before the feast of St. Peter ad Vincula,[3] whereas a tempest arose by which his said ship while coming toward the town of Boston was thrown upon a rock on the coast of Norway and there shattered. And now Gose Coert and John Pode of the said town of Kampen with their two ships have come to the said town of Boston. May it please your very sage discretions to grant a writ to the bailiffs of Boston aforesaid to arrest the said two ships of Kampen and to detain them under arrest until full restitution be made to the said suppliant for the aforesaid costs and damages, according to what good faith and reason demand, for God and in way of charity.

[*Endorsed:* —] Agreed by the lord chancellor,[4] 15 November, in the sixth year.[5]

The fifteenth day of November, year, etc., sixth. It is agreed by the council that a commission under the great seal should be addressed to Robert Tirwyt[6] and William Lodyngton,[7] justices, to have the parties herein specified appear before them and that having well and duly examined the matter contained in this petition they shall thereupon do justice to the said parties, making express relation to the king's council of what they shall have done in this case.[8]

[illegible] in 1416, and a commissioner to raise a loan in Lincolnshire in 1419 (*Cal. Pat.* 200, 252).

[3] 1 August.

[4] Thomas Langley, 1417-24.

[5] This endorsement is not in the original petition.

[6] Tirwhit or Thirwit, serjeant at law in 1399, justice of common pleas and of the king's bench in 1408, justice of the peace in Westmoreland, Yorkshire, Northumberland, and Lincolnshire, commissioner of array in Lincolnshire in 1415, commissioner of oyer and terminer, etc. *Cal. Pat. Rolls.*

[7] Lodington or Lodyngton, attorney general in 1399, serjeant at law in 1410, king's serjeant at law in 1412, justice of common pleas in 1415, justice of the peace in Cumberland, Westmoreland, Yorkshire, and Lincolnshire, commissioner of oyer and terminer, etc. *Ibid.*

[8] This commission was issued on the same day. *Cal. Pat.* 6 Hen. V, 205.

DUVAL *v.* COUNTESS OF ARUNDEL[1]

1421 Au Roy nostre souuerain seigniour.

Supplient humblement Guille du val, vostre homme luige, vray subgiet et obbeyssant de vostre chitte de Rouen marchant, et Ernoult Claissoun [maitre dune nauire appele la Marie de] Cingnet de Selissay[2] en Selande et Comme voz dix suppliens priient a vostre treshaulte segneurie et majeste royal dauoir restitucion de cer[teins vins qi furent enportes a Briscampton[3] par] fortune de temps en la compte de Susses, lesquieulx vins lesdix supplians pourquaichent de jour en jour amon grant f[re]s et despens des qu[els vins furent]enporte dedens la seugneurie de monssieur larcheuesque de Quantorbyere vint pippes audit lieu, et xxxvi pippes furent [enporte, dedens la] seignourye de madame la Contesse Darondel,[4] et desquelles vint pippes qui furent menees et en portees en la segneurie dudit ar[cheuesque furent les dix] supplians comptentes des dites xx pippes, et aussy furent conptentes de dix pippes des xxxvi pippez dessusditz qui fur[ent] m[enees dedens la seigneurie] de la dite Comptesse. Ainssy demeure de reste pour les dix supplians xxvi pippes de vin des xxxvi dessusdites lesquellez xxvi pippes . . . dethient et se fond de un on de la dite dame et veult dethenir lesdix vins a grant tort et dommaige des dix supplians. Et sy auoient eu [lettres] de vostre haulte majeste royal adrechant a Richard Watheherst et Waultier Urry[5] et sonen hommes, officers de la dite Contesse, pour [deliuerer] lour dix vins et yceulx nont voullu obbeir ne octhemperer, et sur ce lesdix supplians requerent auoir une commission du Roy [pour enquirer touchant] lesdis vins et fres et dommages qil yont fais en pourquaschant la dite marchandise adrechant a monssieur de Pony[nges[6] ch'r Johan] Nelond[7] Jennequin Halles[8] le Joun devenir[9] a Loundres par deuant Justice aesster adroit selonc le cas alla reste desdix supplians. Et [le dit Guille] et lesdix supplians prierent Dieu pour vous et pour vostre tresnoble sanc et lingnage.

[*Endorsed:* —] Le xix jour de Feuerer lan etc. oytisme, par le conseil du Roy nostre souerein seignur, accordez est qe desouz le grant seal de nostre dit souerein seignur soient faites lettres de commission adressees au Sire de Ponyngges et as autres cy dedeinz nommez denquere de les biens et

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[1] *Ancient Petitions*, no. 8745. The membrane is badly damaged. The spaces indicated by brackets have been filled in by comparison with the entry in the *Patent Roll*, 8 Hen. V, m., 2 d. The petition, it will be noticed, was composed by a foreigner, and contains verbal forms strange to England.

[2] = Zierikzee.

[3] The parish of Brighton contained three lordships: (1) Brighton-Lewes, which came to the Arundels from the Warren estates in 1347. The late earl, dying without issue, left it with other parts of the barony to the Countess Beatrice, mentioned below (T. W. Horsfield, *Hist. of Sussex* [1835], i, 110), who retained possession of it to the end of her life (*Cal. Inq., p. m.*, iv, 197–8). (2) Brighton-Michelham, belonging to the priory of Michaelham (Horsfield, i, 112). (3) Brighton-Atlingworth, belonging to the monks of Lewes. Just what claims the archbishop of Canterbury had, has not been shown.

[4] Beatrice, illegitimate daughter of the

DUVAL *v.* COUNTESS OF ARUNDEL[1]

1421 To the king our sovereign lord.

Humbly beseecheth William Duval, your liege man, true and obedient subject of your city of Rouen, merchant, and Arnold Claisson, [master of a ship called *La Marie de*] *Cygnet* of Selissay[2] in Zealand. And since your said suppliants pray to your very exalted lordship and royal majesty that they may have restitution of certain wines which were brought into Brighton[3] by fortune of time in the county of Sussex, which wines the said suppliants sue for from day to day to my great cost and expense; of which wines there were brought within the lordship of my lord the archbishop of Canterbury 20 pipes at the aforesaid place, and 36 pipes within the lordship of the countess of Arundel,[4] and of the 20 pipes which were taken and brought within the lordship of the said ar[chbishop the said] suppliants have been satisfied for the said 20 pipes, and also for ten of the aforesaid 36 pipes which were [taken within the lordship] of the said countess. Thus there remains wanting to the said suppliants 26 pipes of wine out of the aforesaid 36, which 26 pipes . . . detains and defends himself by the name of the said lady, who means to detain the said wines to the great wrong and damage of the said suppliants. And whereas they have had [letters] of your high royal majesty addressed to Richard Watheherst and Walter Urry[5] and their men, officers of the said countess, to [deliver] their said wines, and these have not been willing to obey or yield; whereupon the said suppliants request to have a commission of the king [to inquire concerning] the said wines and costs and damages that they have incurred in suing for the said merchandise, addressed to the lord of Pony[ngs,[6] knight, John] Nelond,[7] Jennequin Halles[8] the younger, (to require the men) to come to London before the court to stand trial according to the case, to the relief of the said suppliants. And the said William and the said suppliants will pray God for you and for your very noble blood and lineage.

[*Endorsed:* —] On the 19th day of February, eighth year, etc., it is agreed by the council of our sovereign lord the king that there should be issued under the great seal of our said sovereign lord letters of commission addressed to the lord of Ponynges and the others named herein to enquire

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king of Portugal and widow of Thomas Fitzalan who died in 1415. Dugdale, *Baronage*, i, 321.

[5] Mentioned as agent of the archbishop and the countess, also a commissioner in 1422 to inquire into false weights. *Cal. Pat. Rolls*, 329, 423.

[6] Robert Poynings, fifth and last earl of a family named from a manor in the downs which had been held by them from the time of Henry II (Horsfield, i, 175). He took part in all the wars of Henry V and Henry VI, serving also as justice of the peace and commissioner in the county until he was slain in 1446 (Dugdale, ii, 135).

[7] or Neland, justice of the peace in Sussex, commissioner of oyer and terminer, etc.

[8] John Halle, probably son of John Halle the elder, sheriff of Surrey and Sussex in 1420. Both were active in the affairs of the county.

[9] For *faire devenir*.

marchandises dount mencion est faite en cestes deux peticions annexez, et as mains de qi ou queux tieux biens et marchandises sont deuenuz, et de faire et ordenner qe diceux due restitucion soit faite a ceux as queux il appartient, comme reson demande, et qe les ditz commissioners facent distinctement et apertement certifier de souz lour sealx au susdit conseil ce quils aueront fait en celle partie.[10]

DANVERS *v.* BROKET[1]

1433 Memorandum quod vicesimo die Iunii anno regni Regis Henrici sexti post conquestum undecimo quidam Robertus Danvers[2] personaliter optulit [se consilio domini Regis in] camera stellata in palacio Westm' et ibidem publice[3] exposuit[4] et declaravit quod circiter duos annos iam elapsos ipse primo retentus fuit ad essendum de consilio cuiusdam Thome Seintcleer et feoffatorum suorum in hiis que ad legem pertinent de et super jure et titulo maneriorum de Barton Sancti Johannis et Staunton Sancti Johannis[5] in comitatu Oxon'. Et pro eo quod quedam inquisicio coram Radulfo Seintowayn,[6] nuper escaetore domini Edwardi, nuper Regis Anglie tercii a conquestu, in comitatu Surr' anno regni sui [vic]esimo septimo post mortem Rogeri de Sancto Johanne[7] capta et in cancellaria sua retornata probabilis et manifesta iuris et tituli predictorum euidencia exist[ebat] predictus Robertus ut unus de consilio predicti Thome et feoffatorum predictorum sequebatur ad concellariam predicti domini Regis nunc pro tenore ejusdem inquisicionis inter alia sub magno sigillo domini Regis secundum formam juris exemplificando. Ac postmodum predictus dominus Rex nunc tenorem predictum per litteras suas patentes quarum datum est apud Westmonasterium terciodecimo die Julii anno regni sui nono inter alia duxit exemplificari. In quibus quidem inquisicione et exemplificacione adtunc inter alia continebatur ista clausula: Et quod Petrus de Sancto Johanne

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[10] The commission was issued on the same day. It required also an inquiry into the complaint of Nicholas Gosselyn another merchant of Rouen who had lost 6 pipes of wine in the same way. *Cal. Pat.* 8 Hen. V, 329.

[1] *Council and Privy Seal* (Exch. T. R.), file 54. The record is exemplified at length in *Close Roll*, 11 Hen. IV, m. 4d., which has been used in determining and supplying some of the words. The case was known to Coke (*Fourth Inst.* ch. V), and was printed in *The King's Council* (p. 525) without translation or annotation.

[2] Eldest son of John Danvers of Cothorp, of a well established family in Berkshire and Oxfordshire, trained at Lincoln's Inn, of which he became one of the governors in 1428. From this time on he was active as an attorney and litigant, but at the time of this case he was not as yet in the employment of the king. In 1436 he was justice of the peace in Oxfordshire, and afterwards served frequently as commissioner and justice of assize. In 1442 he was elected recorder of London (*Cal. Letter-books*, K, 273); in 1443 he was a serjeant at law; in 1444 a king's serjeant; in 1450 a justice of common pleas (*Cal. Pat. Rolls*).

[3] Contrary to a current belief, the proceedings of the council were not always, perhaps not usually, secret (*The King's Council*, p. 105). The custom of public sessions was carried over into the modern court of star chamber (E. P. Cheyney, *Hist. of Eng. from the Armada*, i, 87).

[4] No petition evidently was required. See Introd., p. xxxvi.

concerning the goods and merchandise mentioned in these two petitions annexed, and into whose hands such goods and merchandise have fallen, and to do and ordain that such due restitution shall be made to whom it belongs as reason demands, and that the said commissioners shall cause distinctly and openly to be certified to the aforesaid council under their seals whatever they shall have done in this matter.[10]

DANVERS *v.* BROKET[1]

1433 Be it remembered that on the 20th day of June in the 11th year of King Henry VI Robert Danvers[2] presented himself in person before the council of the lord the king in the Star Chamber in the Palace at Westminster, and there made public[3] exposition,[4] declaring that about two years previously he had been retained as counsel of one Thomas Sinclair and his feoffees in law touching and concerning the right and title to the manors of Barton St. John's and Stanton St. John's[5] in the county of Oxford. And whereas a certain inquisition that was taken before Ralph Seintowayn[6] once escheator in the county of Surrey for Edward III, formerly king of England, in the twenty-seventh year of his reign, after the death of Roger St. John,[7] and this inquisition having been returned to the chancery remained as the probable and manifest evidence of the aforesaid right and title, the aforesaid Robert as counsel of the aforesaid Thomas and the aforesaid feoffees sued in the chancery of the aforesaid lord the present king among other things for an exemplification of the tenor of the same inquisition under the great seal in due form. And afterwards the aforesaid lord the present king by his letters patent dated at Westminster the 13th day of July in the 9th year of his reign, among other things, had the aforesaid tenor exemplified. In this inquisition and exemplification, among other things, there was then contained the following clause: " And because Peter St. John is a cousin and the nearest heir of the aforesaid Roger, being

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[5] These manors were part of the estate of Roger St. John, mentioned below in 27 Ed. III. They were transferred several times before they are found in the possession of Philip Sinclair, or St. Clare, who held by knight service and died in 9 Hen. IV (*Cal. Inq., p. m.*, iii, 320). His elder son John, a minor and ward of the king, died in the reign of Henry V, leaving the lands to a younger brother the above named Thomas, also a minor at the time and ward of the king. This Thomas in 1424 paid a fine of £200 for marrying without the king's license (*Cal. Pat.* 2 Hen. VI, 180), and in 1426 was required to pay another fine of £60 for making enfeoffments in the manors of Barton St. John's and Stanton St. John's and elsewhere without a license (ibid. 4 Hen. VI, 352). It was probably in these transactions that Danvers was engaged as an attorney.

[6] or St. Owen, sheriff of Surrey and Sussex in 1351, and escheator 1353–54. *Cal. Cl. Rolls.*

[7] Son of John St. John, of a family known from the time of Henry III in connection with the manor of Lagham in Surrey. Barton and Stanton in Oxfordshire were acquired in the reign of Edward I (O. Manning, *Hist. of Surrey* [1809], ii, 324). Great Barton was released by a deed in 1352 (*Cal. Cl.* 27 Ed. III, 507). This Roger died in 1353 leaving the residue of his estate, including Lagham and Walkamsted in Surrey, to Peter his cousin and heir (*Cal. Inq., p. m.*, ii, 181), whose title was at this late day brought into question.

est consanguineus et heres predicti Rogeri propinquior et etatis xl annorum et amplius, que quidem clausula in omnibus de litteratura clara et uniformi adtunc extitit et non viciosa nec in aliquo rasa aut suspecta, ut idem Robertus coram consilio predicto publice exposuit et declarauit. Dicebat insuper idem Robertus quod predictus numerus xl in predicta clausula contentus quamdiu non rasus nec viciosus, ut predictum est, extitit in magnam euidenciam eneruacionis et adnullacionis pretensi iuris et tituli quorundam Johannis Lydeyard [8] et Clemencie uxoris ejus de et in maneriis predictis manifeste redundauit, in qua quidem clausula predictus numerus xl diu citra confeccionem ejusdem exemplificacionis de nouo rasus et iterum cum nouo incausto renouatus extitit et rescriptus, prout in dicta inquisicione satis aperte eminet et apparet.[9] De quibus quidem rasura et rescripcione predictus Robertus in diuersis regni partibus per nonnullos obloquentes multipliciter extitit diffamatus in ipsius Roberti scandalum, et predicti Thome et feoffatorum suorum predictorum juris et tituli de et in maneriis predictis prejudicium non modicum et grauamen. Super quibus predictus Robertus predictam exemplificationem coram dicto consilio publice demonstrans humiliter supplicauit tam pro domino Rege quam pro restitucione fame sue predicte quod Thomas Smyth,[10] clericus, qui habet custodiam dicte inquisicionis necnon certorum recordorum cancellarie domini Regis apud Turrim London' existencium sub Johanne Frank,[11] clerico custode rotulorum cancellarie ejusdem domini Regis, et Robertus Poleyn, seruiens ejusdem Thome Smyth, sint vocati ad dictum consilium ad recognoscendum quid nouerint vel dicere sciuerint de rasura predicta. Qui quidem Thomas et Robertus die et loco predictis coram dicto consilio comparentes et predictam inquisicionem ut predictum est rasam secum portantes, visisque eis insimul predictis inquisicione et exemplificacione, fide qua domino Rege tenebantur matura deliberacione dixerunt et recognouerunt quod predictus Robertus Poleyn scripsit eandem exemplificacionem, et postea dictus Thomas Smyth et Robertus Poleyn simul examinauerunt predictas inquisicionem et exemplificacionem, in qua quidem examinacione adtunc in loco dicte rasure reperierunt solomodo istas litteras x et l simul et antiquiter scriptas pro isto numero quadraginta non rasas suspectas nec in aliquo viciosas, prout in dicta exemplificacione scribitur et testatur. Verumptamen pro eo quod hec rasura falso et nisi tarde, ut apparet, extitit perpetrata dicunt quod quidam Willelmus Broket mediacione cujusdam Gerardi de la Hay [12] circiter festum Sancte Katherine Virginis [13] ultimo

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[8] The claim of John Lydeyard has not been traced.

[9] The original document (*Inquisitiones post mortem*, 27 Ed. III, file 121, no. 27) shows the rasure just as is here described. The rasure was roughly made, leaving traces of the former writing, while the later writing is blacker than the original, more heavily drawn and has spread by blotting. An endorsement written in modern times reads: *De Rasura numeri XL infra script. vide Memorand' in Dorso Claus. de anno h. 6. m. 4 d.* The Statute 8 Ric. II, c. 4 applied to offences of this kind. See Introd., p. cviii.

[10] Keeper of the records in the Tower; a clerk in the chancery receiving attorneys. *Cal. Pat.* 12 Hen. VI, 309, 332, etc.

more than forty years of age." This clause in every way was then of a clear and uniform writing, not damaged or rased in any place or suspected, as the said Robert has publicly explained and declared before the aforesaid council. Moreover the same Robert said that the aforesaid number *XL* occurring in the aforesaid clause, so long as it was not rased or damaged, as has been said, manifestly afforded strong evidence of the weakness and annulment of the alleged right and title of a certain John Lydeyard[8] and Clemence his wife to and in the aforesaid manors, for in this clause the number *XL*, long after the same exemplification was made, has been recently rased and renewed with fresh ink and has been written over, as stands out very prominently and is clearly apparent in the said inquisition.[9] By reason of this rasure and rewriting the aforesaid Robert has been greatly defamed by persons in many parts of the realm who blame him, to the great shame of the said Robert and to the enormous prejudice and hardship of the aforesaid Thomas and his aforesaid feoffees in respect of the right and title to and in the aforesaid manors. Furthermore the aforesaid Robert publicly exhibiting the aforesaid exemplification before the said council humbly besought in behalf of the king as well as for the restoration of his own good name that Thomas Smyth,[10] clerk, who has custody of the said inquisition as well as of certain records of the lord the king's chancery remaining in the Tower of London, under John Frank,[11] clerk, keeper of the rolls of the chancery of the said lord the king, and Robert Poleyn, servant of the same Thomas Smyth, should be called before the said council to make recognition of what they know or can say concerning the aforesaid rasure. The same Thomas and Robert at the aforesaid time and place appeared before the said council, bringing the aforesaid inquisition that had been rased as already described, and having viewed the aforesaid inquisition at the same time with the aforesaid exemplification, upon the faith by which they are bound to the lord the king, after mature deliberation they declared and recognised that the aforesaid Robert Poleyn wrote the said exemplification. Afterward the said Thomas Smyth and Robert Poleyn examined the aforesaid inquisition together with the said exemplification, whereby they then discovered that in the place of the said rasure only these letters *x* and *l* had been written simultaneously and originally for the number forty, which had not been rased, suspected or in any way impaired, just as is written and attested in the said exemplification. Nevertheless because this rasure has been perpetrated falsely and only lately, as it appears, they say that one William Broket with the assistance of a certain Gerard de la Hay[12] about St. Katherine's Day[13] last came to the aforesaid

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[11] Master of the rolls, 1423–41.

[12] A clerk now at the beginning of a long career in the exchequer. In 1452 he was honoured with a special grant for his good service to Henry V and Henry VI, and because of his advanced age was exempted from official duties (*Cal. Pat.* 31 Hen. VI, 66). He was among those exempted in 1455 from the Resumption Act (*Rot. Parl.* v, 319).

[13] 25 Nov. 1432.

preteritum venit ad predictam Turrim una cum predicto Roberto Poleyn, et cum venisset illuc in domo ubi dicta inquisicio remanebat, ut predictus Robertus Poleyn asseruit, predictus Willelmus peciit visum antedicte inquisicionis, quam videns requisiuit eum diuersa alia recorda scrutare dummodo ipse Willelmus dicte inquisicionis copiam scriberet. Ipseque Robertus, sciens ipsum Willelmum esse clericum scaccarii domini Regis et prout moris est juratum eidem domino Regi, permisit ipsum Willelmum solum scribentem copiam inquisicionis antedicte dummodo ipse Robertus circa predictum aliud scrutineum aliunde extitit occupatus, per quod ipse Robertus bene recolit quod ipse numquam aliquem habere largum suum dictam nephandam rasuram fecisse permisit nisi solomodo predictum Willelmum. Et ideo peciit quod predictus Willelmus sit vocatus in dictum consilium de et super premissis examinari etc. Et super hoc predictus Robertus Danvers pro majori declaracione ac vera et plena ratificacione innocencie sue de rasura predicta protulit diuersas copias litterarum nomine predicti Johannis Lydeyard factarum predictam rasuram concernencium, et post eandem rasuram diuulgatam predicto Willelmo directarum. Protulit eciam predictus Robertus litteras rescripcionum ejusdem Willelmi propria manu sua scriptas et sigillo suo signatas predicto Johanni Lydeyard directas, credente ipso Willelmo easdem litteras ad possessionem predicti Johannis Lydeyard tantum et non ad possessionem alterius deuenisse eandem rasuram tangentes. In quibus quidem litterarum copiis nomine ipsius Johannis, ut predictum est, factarum et eidem Willelmo in forma predicta directarum inter alia iste clausule sequentes continentur, videlicet in prima copia: Right welbeloved frende, I comaund me to you, and wull ye witen [14] that hit is gretely noysed in oure contrey [15] by Danvers that the clerkes of the Tour seyn that ye rased the record of Piers Seintjon, wherefore I praye you send me wurd by letter whether any of the clerkes of the Tour in any wyse might aspie you in rasyng of the seyd record, and whether ye haue tolde your counsell to any of your felowes that is aqueynted with Davers, etc. Et quoad istam litteram et clausulas predictus Robertus eciam protulit quandam litteram predicti Willelmi responsoriam propria manu sua scriptam et predicto Johanni directam in qua quidem littera iste clausule sequentes inter alia continentur: Reuerent and wurshipfull sir, I recommaund me unto you, desiryng your good welfare, prayng you to recommaund me unto my maistres your wife, doyng you to wite that I undirstand your letter wele. And as touchyng the clerkes of the Tour Credo quod non vidit, etc. And as touchyng the counsell Nemini loquebar nisi quod scitis etc. Deinde idem Robertus protulit quandam aliam copiam cujusdam alterius littere nomine predicti Johannis facte et eidem Willelmo directe predictam rasuram tangentis. In qua quidem copia inter alia iste clausule continentur: I preie you send me redy wurd whether the clerk in any wyse might aspie you while the rasure was in hond and wher aboute the clerk was ocupied in the mene tyme. And also send me redy wurd

Tower along with the aforesaid Robert Poleyn, and when he had come there to the room where the said inquisition was kept, as the aforesaid Robert Poleyn has asserted, the aforesaid William sought to view the aforesaid inquisition, and when he found this he required (the said Robert) to examine diverse other records, while William himself was writing a copy of the said inquisition. And the said Robert, knowing that the said William was a clerk in the exchequer of the lord the king and according to custom had been sworn to the same lord the king, permitted the said William alone to write a copy of the aforesaid inquisition, while Robert himself was occupied elsewhere with the examination of something else, as has been stated, so that the said Robert well remembers that he never permitted anyone to have the liberty of making this infamous rasure, excepting only the aforesaid William. And so he asked that the said William be called to the said council to be examined in and upon the premises, etc. Hereupon the aforesaid Robert Danvers, in order to have a stronger declaration and a true and complete ratification of his innocence of the aforesaid rasure, produced diverse copies of letters written in the name of the aforesaid John Lydeyard concerning the aforesaid rasure and directed to the aforesaid William after the same rasure had been divulged. Moreover the aforesaid Robert exhibited certain letters of the same William in reply written by his own hand, signed with his own seal and directed to the aforesaid John Lydeyard, concerning the same rasure, which letters, as William himself believed had come into the possession of the aforesaid John Lydeyard and not to anyone else. In the copies of these letters written in the name of the said John, as has been stated, and directed in the aforesaid manner to the same William, among other things the following clauses occur, to wit in the first copy: " Right welbeloved frende," etc. As to this letter and these clauses the aforesaid Robert produced also a letter of the aforesaid William in reply written with his own hand and directed to the aforesaid John, wherein among other things the following clauses occur: " Reverent and wurshipfull sir," etc. Then the same Robert produced a copy of a certain other letter written in the name of the aforesaid John and directed to the said William in regard to the aforesaid rasure. In this copy among other things the following clause occurs: " I prei you," etc. As to this point the

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[14] = know.

[15] = county.

whether the olde letter be clene awey as ye suppose or no etc. Et quoad hoc idem Robertus insuper protulit quandam aliam litteram ipsius Willelmi responsoriam eciam propria manu sua scriptam et eidem Johanni directam, in qua iste clausule sequentes inter alia continentur: As touchyng the clerk, he was busy aboute other thynges ther while, for I do you to wite that hit was in a large hous, and the olde letter is clene awey as I suppose, etc. Deinde idem Robertus protulit quandam aliam copiam cujusdam alterius littere nomine predicti Johannis facte [et] eidem Willelmo directe predictam rasuram eciam concernentis, in qua ista clausula inter alia continetur: And also I preie you hertily sendeth me redy wurd whether the olde letter in the record by fore etc. were evyn xl as the newe is nowe, and nothing more ne lasse, or ellys more as xliiij or a nother somme, for yet I coude neuer undirstond that clerly, for men speke muche that ther shuld be a gret space seyn after the noumbre etc. Et quoad istam litteram et clausulam predictus Robertus Danvers protulit quandam aliam litteram dicti Willelmi responsoriam propria manu sua, ut predictum est, scriptam et predicto Johanni directam, in qua iste clausule sequentes inter alia continentur: And as touchyng the olde letter in the record, I sawe it nether more ne losse then xl noumbre. And ther to sayd my Maisters Martyn [16] Cottesmore,[17] and Paston [18] that it was by fore, etc., the nombre of xxiiij^{or}, and therfore as touchyng that neyther avaunt nor arere [19] as to me in that case, etc. Et super hoc predictus Robertus Danvers peciit quod predictus Willelmus vocetur singulis predictis copiis litteris et euidenciis versus eum superius allegatis coram dicto consilio responsurus. Qui quidem Willelmus ibidem personaliter adtunc comparens, auditisque visis et intellectis sibi predictis copiis litteris et euidenciis affirmauit et cognouit quod tot et tales littere et clausule nomine predicti Johannis Lydeyard facte ad manus suas, ut premittitur, devenerunt, et quod ipse credens eas per predictum Johannem factas fore et missas fecit predictas litteras et clausulas responsorias et eas propria manu sua scripsit prout superiius declaratur. Cognouit insuper quod ipse solus circiter festum Sancte Katerine Virginis ultimo preteritum transiuit cum predicto Roberto Poleyn ad Turrim predictam, et quod nullus eo tempore fuit in domo ubi recorda predicta fuerunt nisi ipsi duo tantum, prout idem Robertus prius exposuit, et quod ipse Willelmus solus adtunc ungue digiti sui predictum numerum xl in dicta inquisicione tempore adventus sui contentum rasit, et eundem numerum ut in hoc maxime videretur suspectum cum nouo incausto renouauit et blottauit. Et requisitus fuit ibidem ab eo qui numerus in predicta inquisicione primo in predicto loco raso tempore sui adventus illuc extitit. Dixit quod iste numerus xl tantum et non major numerus neque minor. Requisitum itaque fuit ab eo ad cujus instanciam venit apud Turrim predictam pro rasura hujusmodi facienda. Dixit quod ad instanciam predicti Johannis Lydeyard. Et super hoc dominus Thesaurarius [20] Anglie, qui circa examinacionem ejusdem Willelmi de rasura predicta diuersimode extitit laboratus, ibidem aperte

same Robert produced still another letter of William himself in reply likewise written with his own hand and directed to the same John, wherein among other things the following clauses occur: " As touching the clerk," etc. Then the same Robert produced a copy of a certain other letter written in the name of the aforesaid John and directed to the same William, also concerning the aforesaid rasure, wherein this clause among others occurs: " And also I preie you," etc. As to this letter and clause the aforesaid Robert Danvers produced a certain other letter of the said William in reply written with his own hand, as has been stated, and directed to the aforesaid John, wherein among other things the following clauses occur: " And as touching the old letter," etc. Hereupon the aforesaid Robert Danvers asked that the aforesaid William be called to answer before the said council for all the aforesaid copies, letters, and evidences alleged above against him. And the said William then and there appeared in person, and having viewed and understood for himself the aforesaid copies, letters, and evidences he affirmed and recognised that all such letters and clauses as are alleged to have been written in the name of the aforesaid John Lydeyard had come to his hands, and that he believing them to have been written and sent by the aforesaid John had written the aforesaid responsory letters and clauses with his own hand, as has been stated above. Moreover he admitted that about St. Katherine's Day last he went with the aforesaid Robert Poleyn to the aforesaid Tower, and that no one was at the time in the room where the aforesaid records were kept, except themselves, two only, just as the same Robert has already explained, and that the said William then with his fingernail rased the number *XL* contained in the said inquisition at the time of his visit, and with fresh ink wrote again the same number, blotting it, in order that in this point especially it might appear (a matter) for suspicion. Hereupon he was asked what number was first found there in the aforesaid inquisition in the aforesaid place of the rasure at the time of his visit. He said only the number *XL*, nothing greater or smaller. He was asked at whose instigation he went to the aforesaid Tower to make such rasure. He said at the instigation of the aforesaid John Lydeyard. Hereupon the lord treasurer [20] of England, who had laboured in diverse ways over the examination of the same William, publicly pro-

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[16] John Martin, justice of common pleas, 1420–.

[17] John Cottesmore, serjeant at law, justice of common pleas, 1429–, justice of oyer and terminer, gaol delivery, etc.

[18] William Paston of the famous Norfolk family, justice of common pleas 1429– known as the Good Judge. *Paston Letters* (ed. Gairdner, 1904), i, 26.

[19] = before nor after.

[20] The titles Lord Treasurer and Lord Chancellor are commonly supposed to arise in the time of the Tudors, but they are found occasionally as early as this. The treasurer was John Lord Scrope, 1431-34.

promisit quod idem Willelmus pro premissis transgressionibus amodo in domini Regis scaccario minime resideret. Deinde dominus Cancellarius[21] Anglie de assensu consilii predicti laudans labores predicti Roberti Danvers in adquisicione predictarum litterarum pro declaracione[22] sua rasure antedicte eundem Robertum nullo modo reum set innocentem rasure hujusmodi et immunem ibidem publice declarauit. Et ulterius quod idem Willelmus non amodo scriberet neque resideret in aliqua curia domini Regis ubi recorda ocuparentur aut extiterint. Et super hoc predictus Robertus peciit omnia predicta pro ejus declaracione irrotulari etc., et ei conceditur etc.

[*Signed:*] H. Goucestre,[23] H. Cantuar,[24] T. Duresme,[25] J. Bathon, Canc',[26] W. Lincoln',[27] R. Londonien',[28] P. Elien',[29] H. Stafford,[30] H. Northumbyrlonde.[31]

[*Endorsed:* —] Decimo die Julii Anno undecimo apud Westmonasterium lectus et concordatus fuit presens actus, et pro declaracione innocencie quantum ad rasuram de qua infra fit mencio infrascripti Roberti Danuers concordatum et concessum fuit quod fiat warantum sub priuato sigillo cancellario Anglie directum includendo in eodem tenorem actus predicti, mandando eidem quod tenorem eundem in rotulis cancellarie inter recorda ejusdem inscribi et irrotulari faciat, pro excusacione predicti Roberti ab omni crimine rasure predicte remansurum de recordo, presentibus dominis se intra scribentibus et aliis.[32]

NEVILLE *v.* NEVILLE[1]

1436 Memorandum that in the Kynges parlement[2] hald at Westminster the ix dey of December in the xiiij yere of his reigne it liked hym to desire Richard Erle of Salisbury[3] and William Lorde of Fauconberge[4] knyght to go in to his reme of Fraunce to do hym seruice there, as wele in defense and kepyng of that that it hath liked God to suffre to be now in his obeissaunce there as in rekeueryng of the remenaunt of his said reme occupyed be his rebels and enemys; to the which the kynges desyer the said Richard and William humbly agreid hem in certayn manere and forme, and in especial so that

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[21] John Stafford, 1432–50.

[22] i. e. of innocence.

[23] Humphrey Duke of Gloucester.

[24] Henry Chicheley, archbishop of Canterbury, 1414–43.

[25] Thomas Langley, bishop of Durham, 1406–37.

[26] John Stafford, bishop of Bath and Wells, 1425–43.

[27] William Grey, bishop of Lincoln, 1431–36.

[28] Robert Fitzhugh, bishop of London, 1431–36.

[29] Philip Morgan, bishop of Ely, 1426–36.

[30] Humphrey Stafford, sixth earl, later duke of Buckingham, d. 1460.

[31] Henry Percy, second earl of Northumberland, d. 1455.

[32] A memorandum of this act is given in Nicolas, *Proceedings*, iv, 166 (see Introd.). The enrolment called for, as a declaration of Danvers' innocence, was made in the *Close Roll*, 11 Hen. VI, m. 4 d.

claimed that the said William by reason of the transgressions above set forth should no longer remain in the exchequer of the lord the king. Then the lord chancellor [21] of England with the assent of the aforesaid council, praising the labours of the aforesaid Robert Danvers in acquiring the aforesaid letters, for his declaration [22] of the aforesaid rasure, publicly pronounced the same Robert to be by no means guilty but innocent of such rasure and immune therefor; furthermore that the said William should no longer write or serve in any court of the lord the king where records are used or kept. Hereupon the aforesaid Robert asked that all the foregoing matters should be enrolled as his declaration, etc., and this was granted him, etc.

[*Signed:*] H. Gloucestre.[23] H. Cantuar.[24] T. Duresme.[25] J. Bathon. Canc.[26] W. Lincoln.[27] R. Londonien.[28] P. Elien.[29] H. Stafford.[30] H. Norhumbyrlonde.[31]

[*Endorsed:* —] On the 10th day of July in the 11th year at Westminster, this act was read and passed, and for a declaration of innocence in behalf of the aforesaid Robert Danvers with regard to the rasure, of which mention has been made above, it was agreed to and granted that warrant under the privy seal should be issued to the chancellor of England, including in the same a tenor of the aforesaid act, commanding him to have the same tenor inscribed and enrolled in the rolls of the chancery among the records of the same, for the exculpation of the aforesaid Robert of all crime in the aforesaid rasure, to stand as a record; in the presence of the lords herein signing (their names) and others.[32]

NEVILLE *v.* NEVILLE (*continued*)

it liked the kynges good grace to gete the assent and licence of thair good lady and modir [5] ther to, with oute whoos good assent and licence for diuers resons shewyd and allegid be thaym thei durst nogt ner godely mygt take

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[1] *Council and Privy Seal* (Exch. T. R.), file 56, 11 March, 14 Hen. VI.

[2] There is no record of the event in the Rolls of Parliament, but an exemplification of the present memorandum is given in the Patent Rolls. *Cal. Pat.* 14 Hen. VI, 595.

[3] Richard Neville, 1400–60, eldest son of Ralph first earl of Westmoreland, by his second wife Joan Beaufort (Dugdale, i, 302; *Dict. Nat. Biog.*). He gained his lands and title by marriage with the daughter and heiress of Thomas of Montacute Earl of Salisbury, a title recognized by the king's council (Nicolas, iii, 325). The indenture here alluded to is not in the Rolls of Parliament, but as given by Dugdale it contained an agreement to furnish 3 bannerets, 7 knights, 249 men-at-arms, 1040 archers (*op. cit.* 202), for which the king promised him £700 (*Cal. Pat.* 516). Under this agreement the earl went to France in May, 1436 and returned in November, 1437. From 1437–40 the earl of Salisbury occupied a place as member of the council and enjoyed much of the patronage of the crown (Nicolas, passim).

[4] William Neville, younger son of the late earl of Westmoreland and Joan, who acquired lands and title by his marriage with Joan daughter of Sir Thomas Fauconberg. Dugdale, i, 308.

[5] Joan Beaufort, daughter of John of

upon hem to passe out of this reme; of the whiche oon amonge other was doute[6] of sutes, unlawfful entrees and other labores that myght and as thay supposid were like to be maid and doen, thaym beyng out of this lande, namly be Raaf now Erle of Westmerland,[7] John[8] and Thomas[9] his brether, and other that be toward hem in prejudice and disheryteson of thair said modir, of thaym, thair brether and of the feffees of Raaf late Erle of Westmerland,[10] thair fadir, and other persones that the thing mygt touche. The which thair answer causid the kyng be thauise of his consail and in especial in eschuyng of trouble and bruser of his pees to commaunde his lettres of priue seal to be send to Johan Comtesse of Westmerland modir to the said Erle of Salisbury and to the Lorde of Fauconberge and also to the said Rauf Erle of Westmerland and John and Thomas his brether, prefixyng hem in the said lettres a day at the which thai shold be before his counsail at Westminster. At the which day and place of Westminster the said Comtesse appierid, and nogt longe after appierid the said Rauf Erle of Westmerland. The which Comtesse, after that the kynges said entent and desire of seruice of her said sones was openid to hir, and deliberacion had be hem ther upon, agreid at the reuerence of the Kyng ther to in certeyn maner and forme, the which she gaf in writyng, contienyng diuerse requestes and desires, and amonge other desire of surete to be maad be the said Rauf Erle of Westmerland in swich wise as the said writyng purportith. After the which her agrement, assent, and writyng so geuyn, the said Rauf Erle of Westmerland at the reuerence and request of the kyng and in furthring of his seruice, bonde hym silfe in the kynges presence and of the worshipful fadir in God the bisshop of Bath, Chaunceller[11] of Englond, the xxviij day of Feueryer, be a reconusance to the kyng in the summe of iiij^{m}li.[12] as for surete of the said Comtesse Richard and William, thair brether and other namid be hem,

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Gaunt, second wife of the late earl of Westmoreland, who had been made, jointly with her son Richard, executrix of her husband's will. It was on the execution of this will that litigation had been kept up between two branches of the family. D. Rowland, *Hist. of the Family of Neville* (1830), pp. 33 f.

[6] = fear.

[7] Grandson of the late earl by his first wife, who succeeded to the earldom in 1425, while still a minor. For years he maintained jointly with his brothers the quarrel with the younger branch of the family (see Introd.). He was at this time justice of the peace in Northumberland, Westmoreland, and York, but he was not a member of the council, nor was he honoured to any such extent as his uncle Richard. First a youth, later an invalid, he counted politically for little.

[8] Later Lord Neville, killed in 1461.

[9] Sir Thomas.

[10] First earl, d. 1425, who had twenty-three children in two groups, the first by his wife Margaret Stafford, the second by

to forbere and make to be forboryn sutes, entrees and other thynges ayens the said Comtesse, Richard, and William, and their brether, and other persones declarid in the condicion of the said reconusance, and in the maner and forme and for the tymes especifyed in the same condicion. After the which bonde and surete so maad, the kyng, consideryng the thynges aboue said and in especial the tendirnes that as wel the said Comtesse as the said Erle of Salisbury and the Lord Fauconberge had to that that shold mow be to the worshipe, wele and seruice of hym, grantid for hym and his heires, that if it hapned the same bonde, surete and summe at any tyme after to be forfaited, thai shold be suyd be his attourney or the attourney of his heires for the tyme beyng, with the assistence of his or ther sergeantes of law to the behoue of the said Comtesse, and Erle of Salisbury, or of thair executores and assignees. And that al that shalbe or shal mow be recouerid be the said sute shall be payyd and applyyd to the said Comtesse, and Erle of Salisbury, or to thair executores and assignees. And that he ne shal in general ne in especial pardone ne relesse to the said Raaf, Erle of Westmerland, ner to his heires or executores the said bonde or summe of iiij^{m}li. at any tyme with oute the assent of the said Comtesse or Erle of Salisbury, or thexecutores and assignees of thaym or of the oon of hem. And that of this his graunt the said Comtesse and Erle of Salisbury shall haue his lettres patentes maad to hem in suffisient and due forme.

[*Signed:* —] H. GLOUCESTRE.[13] H. CARDINAL.[14] J. EBOR'.[15] J. BATHON' CANC. H. NORTHUMBYRLONDE.[16] HUNTYNGTON.[17] SUFFOLK.[18]

Lettre ent feust faite a Westminster le xi° jour de Marcs lan, etc.[19] xiiij.

Joan Beaufort of royal blood. He diverted half of the Neville estates to the children of the second marriage and finally left a will so far favourable to them, that it was contested for years afterwards. *Dict. Nat. Biog.*

[11] John Stafford, chancellor, 1432–50.

[12] There was a debt of £4000 which the earl of Westmoreland recognized he owed to the countess and Richard his brother, pursuant to a grant of his father. A recognizance was enrolled in the *Close Roll*, 13 Hen. VI, m. 14, and renewed 16 Hen. VI, m. 8.

[13] Humphrey, d. 1447.

[14] Henry Beaufort, bishop of Winchester, 1405–47.

[15] John Kemp, archbishop of York, 1426–50.

[16] Henry Percy, second earl of Northumberland.

[17] John Holland, second earl of Huntingdon, d. 1447.

[18] William de la Pole, fourth earl of Suffolk, d. 1450.

[19] *Cal. Pat. Rolls*, 14 Hen. VI, 595.

CONFESSION AND EXAMINATION OF JOHN FORDE[1]

A

1439 Memorandum de confessione Johannis Forde

Memorandum quod quartodecimo die Maii ultimo preterito Johannes Forde[2] de London mercer venit in propria persona sua apud Westmonasterium videlicet in camera stellata infra palacium Regis coram Radulfo domino de Cromwell, chiualer, Thesaurario Anglie, Johanne Fray[3] et Willelmo Fallan[4] clerico Baronibus de Scaccario predicti domini Regis, in presencia Johannis Vampage,[5] attornati domini Regis, ac Roberti Whityngham,[6] majoris stapule predicti domini Regis ville sue Cales', necnon Willelmi Estfeld,[7] Roberti Large[8] et Hugonis Dyke,[9] mercatorum de societate ejusdem stapule, et sacramentum prestitit corporale de veritate dicenda super certis articulis commodum dicti domini Regis tangentibus. Et super hoc idem Johannes adtunc et ibidem examinatus si ipse aliquam lanam vel aliquas pelles lanutas alicui alienigene ante hec tempora vendiderit, idem Johannes dicit et bene cognouit quod ipse mense Maii anno regni dicti domini Regis nunc sextodecimo apud London' in parochia de Aldermarichirche[10] vendidit cuidam Gerardo Matson, ducheman, viginti et sex petras lane precii cujuslibet petre tres solidos et septem duodenas[11] panni lanei lati precii duodene pro eodem precio inter eosdem Johannem Forde et Gerardum concordato, et quod idem Johannes Forde postea eosdem lanam et pannos paccari fecit in quodam pacco, et eundem paccum sic paccatum apud dictam ciuitatem London' in Graschurchestrete, videlicet, in parochia Sancti Benedicti, cuidam Johanni Piper, seruienti Clementis Comber de Colcestr', usque eandem villam Colcestr' in carecta ipsius Clementis, unde idem seruiens adtunc fuit carectarius, cariandum et Johanni Cranle de Colcestr' predicta ibidem liberandum. Et insuper predictus Johannes Forde dicit quod super liberacione pacci predicti prefato seruienti apud London', ut predictum est, facta, idem Johannes Forde liberauit eidem seruienti quandam litteram ipsius Johannis Forde prefato Johanni Cranle directam, per quam litteram idem Johannes Forde voluit et mandauit eidem Johanni Cranle quod ipse paccum predictum a prefato

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[1] Exemplified in the *Close Roll*, 17 Hen. VI, m. 6, including A the memorandum of the council, and B the consequent writ.

[2] A mercer of London he is called in B.

[3] Appointed third baron of the exchequer in 1426, second baron in 1435, chief baron in 1436, and in this capacity he was still active in 1443. For his good service in the exchequer he recieved a life grant of a manor worth 40 marks a year (*Cal. Pat.* 15 Hen. VI, 50). He was justice of the peace in several counties and commissioner of various sort.

[4] Baron of the exchequer 1436–44, and commissioner. He was on several other occasions appointed to inquire into cases of illicit exportation of wool and evasion of the customs. *Cal. Pat.* 17 Hen. VI, 315; 18 Hen. VI, 372, 417, etc.

[5] Esquire, justice of the peace in Worcestershire, commissioner of oyer and terminer, etc., king's attorney in chancery in 1439 (*Cal. Pat.* 294).

[6] Draper of London, alderman of Bishopsgate, 1417–22, of Walbrook, 1422–28, sheriff of Herts and Essex, 1433–34, and 1438–39 (Beaven, *Aldermen of London*, ii, 5), one of the executors of the will of the late duke of Bedford, mayor of the staple and treasurer of Calais, 1439–40 (*Cal. Pat. Rolls*). His will is dated 1452.

CONFESSION AND EXAMINATION OF JOHN FORDE[1]

A

1439 Memorandum of a confession and examination of John Forde.

Be it remembered that on the fourteenth day of last May, John Forde[2] of London, mercer, came in person to Westminster, that is, in the star chamber within the king's palace before Ralph Lord Cromwell, knight, treasurer of England, John Fray[3] and William Fallan,[4] clerk, barons of the exchequer of the aforesaid lord the king, in the presence of John Vampage,[5] the lord the king's attorney, and Robert Whityngham,[6] mayor of the aforesaid king's staple of his town of Calais, as well as William Estfeld,[7] Robert Large,[8] and Hugh Dyke,[9] merchants of the society of the said staple; and he took an oath in person to tell the truth about certain articles touching the interests of the said lord the king. With regard to these things the said John, having been then and there examined as to whether he had previously sold any wool or wool fells to any foreigner, the same John declares and fully acknowledges that in the month of May in the sixteenth year of our said lord the present king, at London in the parish of Aldermary Church,[10] he sold to a certain Gerard Matson, a Dutchman, twenty-six stone of wool, valued at three shillings a stone, and seven dozens[11] of woolen broadcloth at a price per dozen the same as had been agreed upon between the same John Forde and Gerard, and that the same John Forde afterwards caused the said wool and cloth to be packed in a certain pack, and the same pack thus put together in the said city of London in Gracechurch Street, that is, in the parish of St. Benet, he caused to be carried to the town of Colchester, to a certain John Piper, servant of Clement Comber of the same town of Colchester in a cart belonging to the said Clement, for whom the said servant was then carter, and had it delivered there to John Cranle in the aforesaid (town of) Colchester. Hereupon the said John Forde says that upon the delivery of the aforesaid pack to the aforesaid servant at London, as has been told, the same John Forde delivered to the said servant a certain letter of the said John Forde directed to the aforesaid John Cranle, wherein the same John Forde expressed to the said John Cranle his wish

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[7] Mercer of London, alderman of Cripplegate, 1423–46, mayor, 1429–30, and under the law that no one should serve a second term within seven years, mayor again, 1437–38. He was noted for his public improvements and was knighted 15 May, 1439, the day after the date of the present case. He was member of parliament for London in 1431, 1439, and 1442, and died in 1448, leaving much property. Beaven, *Aldermen*, ii, 6; *Cal. Letter-books*, K; *Wills in the Husting*, ii, 509.

[8] Mercer of London, alderman of Castle Baynard, 1429–41, sheriff in 1430, member of parliament in 1435, mayor, 1439–40 (Beaven, ii, 7). He was appointed in 1440 to at least two commissions to deal with illegal practices in the wool trade (*Cal. Pat.* 373).

[9] Mercer of London, candidate for alderman in 1437 (Beaven, i, 145), sheriff in 1438, and collector of the subsidy on wool in London in 1439 (*Cal. Pat.* 257).

[10] St. Mary Aldermanbury in Cripplesgate. Kingsford-Stow, i, 292.

[11] Dozen, a kind of kersey or coarse woolen cloth, e. g. "broadcloths and dozens," mentioned in Statute 11 Hen. VI, c. 9.

carectario reciperet, et in casu quo predictus Gerardus solueret eidem Johanni Cranle ad opus predicti Johanni Forde octo libras, extunc idem Johannes Cranle paccum predictum predicto Gerardo sine dilacione liberari faceret. Examinatus eciam idem Johannes Forde quis vel qui eundem paccum paccauit siue paccarunt et quo modo, idem Johannes Forde dicit quod ipse et predictus Gerardus in dicta ciuitate London', videlicet, in domo ipsius Johannis Forde in parochia Sancti Dunstani[12] in le Est London' dictum paccum inter se paccarunt, ponendo, paccando, suppeditando et firmiter premendo lanam predictam inter pannos laneos predictos et circumuoluendo subtiliter eandem lanam cum aliquibus pannis de pannis predictis ex qualibet parte ejusdem lane in aliquibus pannis de pannis predictis, ac eciam circumuoluendo eundem paccum circumquaque cum panno lineo ad modum paccorum laneorum taliter quod omnibus estimaretur paccus cum pannis laneis et non cum aliquibus lanis.[13]

B

De liberando et recipiendo Johannem Forde

Rex custodi prisone nostre de Flete vel ejus locumtenenti salutem. Precipimus tibi quod Johannem Forde seniorem de London' mercer sub custodia tua detentum habeas apud Westmonasterium die veneris proximo futuro et ipsum ibidem vicecomitibus nostris London' ad ipsum per eos sub certa forma per nos sibi data ob demerita sua castigandum et puniendum[14] liberes, et ipsum sic castigatum et punitum a predictis vicecomitibus recipias et ipsum in prisona predicta quousque pro ejus deliberacione aliud a nobis habueritis in mandatis saluo et secure custodiri facias. Et hoc nullatenus omittas. Mandauimus enim eisdem vicecomitibus quod ipsum Johannem a te recipiant et eum iterato tibi deliberent in forma supradicta. Teste Rege apud Westmonasterium xvij die Junii.

per breue de priuato sigillo.

EXAMINATION INTO THE BEDFORD RIOT[1]

A

1439 Hi sunt articuli examinationum iiij^{or} partium sequentium infrascriptarum videlicet Thome Wauton militis, etc. Et responsiones ad eosdem articulos.

[*Translation:*—]

These are the articles of examination of the four following parties, described below, namely Thomas Wauton knight, etc., and their answers to the same articles.

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[12] In Tower Ward. Kingsford-Stow, i, 134.

[13] On such methods of smuggling see Statute 8 Hen. VI, c. 22; also Introd. p. cxi.

[14] Probably the pillory was the means of chastisement intended. This was commonly used in just such a manner, the prisoner being brought forth from day to day to stand thus in disgrace for an hour or more at a time. Sometimes there were exhibited articles suggestive of the crime, as when in the case of a fraudulent coal seller burning sacks were put at his feet. *Cal. Letter-books*, K, 95, etc.

that he should receive the aforesaid pack from the aforesaid carter, and as soon as the aforesaid Gerard should pay to the said John Cranle eight pounds for the profit of the aforesaid John Ford, immediately the said John Cranle should have the aforesaid pack delivered to the aforesaid Gerard without delay. And the same John Forde having been examined also as to what man or men had done the aforesaid packing and how it was done, the same John Forde declares that he and the aforesaid Gerard, in the said city of London, that is, in the house of John Forde himself in the parish of St. Dunstan,[12] in the east of London, did the said packing by themselves, putting in the aforesaid wool, packing it down, stamping upon it and firmly pressing it between the (folds of the) aforesaid woolen cloth, craftily binding up part of the same wool with some of the aforesaid cloth and part of it with the rest, also binding together the said pack all around with linen cloth after the fashion of packs of woolen (goods), so that it would be appraised by all as a pack of woolen cloth and not of any wool.[13]

B

Concerning the delivery and return of John Forde.

The king to our warden of the Fleet prison or his deputy greeting. We direct you that on Friday next you bring to Westminster John Forde, the elder, mercer of London, who has been detained in your custody, and there deliver him to our sheriffs of London to be chastised and punished [14] by them, because of his delinquencies, according to certain directions given to them by us; and after he has been thus chastised and punished by the aforesaid sheriffs, do you take him back and have him safely and securely guarded in the aforesaid prison, until you shall have had further orders from us for his liberation. And this do you in no wise omit. For we have commanded the same sheriffs that they shall receive the said John from you and return him again to you in the abovesaid manner. Witness the king at Westminster on the 17th day of June. By writ of privy seal.

EXAMINATION INTO THE BEDFORD RIOT (*continued*)

B

The x^{e} day of Feuerer the xvii^{e} yere of the Kyng at Westmynstre in the Sterre Chambre beyng thanne present the high and myghti prince Duc of Gloucestre[2] the Bishops of Bath[3] chaunceller and of seint Dauid[4] therles

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[1] The original record of this examination is found in *Parliamentary and Council Proceedings* (Exchequer), file 4, no. 5, which was printed in *The King's Council*, p. 529. That record however is badly damaged, half of the paper being torn away, so that the rest is hardly intelligible. The subsequent discovery of an exemplification, which was used in draughting the ensuing letters patent, has placed a full record of the proceeding before us. This is found in *Parl. Proceedings* (Chancery), file 22, no. 18. The opening paragraph A, since it does not occur in the exemplification, has been taken from the original record. Likewise the petition C is attached to the latter record.

[2] Humphrey, d. 1447.

[3] John Stafford, chancellor, 1432–50.,

[4] Thomas Rodburn, 1433–42.

of Sarum [5] and Northumberland [6] the Lord Cromwel [7] Tresorer of England William Lyndewode [8] keper of the kyngis priue seal and Robert Rolleston [9] Warderober the Kyngis counsaillours examined the persones whoos namis here on folow upon the ryot that was doo at Bedford the xii^{e} day of Januer the yere abouesaid. AND FIRST [10] was called before the seid counsail Thomas Wawton [11] and sworne upon a boke to sey the playn trouth and nouzt to melle it with eny ontrouth for hate or euel will neither for loue ner fauour but plainly report as it was in dede nouzt sparing for no persone ne for no thyng, and he seid plainly he wolde saye the trouth in such thingis as shulde be demanded of him. FIRST it was asked him yif he hadde sette his seel unto the certificat [12] that was yeue and put up to the kyng upon the lord Faunhope [13] as touching the seid mater of Bedford, and he answered ye. And forthwith asked yif he knewe the mater content in the seid certificatt, and he answered ye. HE WAS asked with what pepil the lord Faunhope came to the towne of Bedford at that tyme and in what array, he answered as to the nombre of persones with a sexti, and as to theire array with thikk doublettis and swerdis and bokelers and thus arraied some of theime come into the halle and a too of theime within the barre. IT WAS asked yif the seid lord Faunhope at other sessions afore that tyme was wont to come in like array he answered ye. HE WAS asked wheder he cam to the halle before the lord Faunhope and hou many of the justices were there to giders ar the lord Faunhope cam, he answered that he and John Enderby,[14] John Fitz,[15] and Harry Etwell [16] came to the halle before the lord

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[5] Richard Neville, 1400-60.

[6] Henry Percy, second earl, 1394-1455.

[7] Ralph Cromwell, treasurer, 1434-44.

[8] or Lindwood, keeper of the privy seal, 1435-.

[9] Keeper of the great wardrobe, 1436-44.

[10] The following clauses in the original record are set off by paragraphs; in the exemplification they are introduced by heavy letters, represented here by capitals.

[11] Wauton or Walton of Eton, knight, sheriff of Bedfordshire and Buckinghamshire in 1422, 1428, and 1432, member of parliament for Bedfordshire in 1425 and 1432, justice of the peace in Bedfordshire in 1435 and 1437, commissioner of oyer and terminer, etc. (*Cal. Pat. Rolls.*) In the present affair he was serving on a special judicial commission apart from the justices of the peace. See Introd. p. cxii.

[12] The certification that Wawton and his fellow justices had sent to the king of the Bedford riot. See Introd. p. cxii.

[13] Sir John Cornewaille or Cornwall, a knight who had risen from obscure origin to be one of the foremost men in Bedfordshire (Dugdale, ii, 212). He first attracted attention in the wars of Richard II (e. g. *Cal. Pat.* 8 Ric. II, 43), and gained the favour of Henry IV, V, and VI. He married the sister of Henry IV, became a Knight of the Garter, and in 1432 was created Lord Fanhope in open parliament. His chief manors in Bedfordshire were Ampthill and Milbrook, and in 1442 he gained the added title of Baron Milbrook. From 1434 he was a member and attendant of the king's council (Nicolas, iv, 212, 317, etc.) As a special honour he was given the custody of the captured duke of Orleans (ibid. 156). Although there was a Richard Cornwall at the time of this case, his lordship died leaving no heir in 1444 (*Close Roll*, 22 Hen. VI, m. 12).

[14] An esquire of Stratton (*Ancient Deeds*, iv, A 8508), justice of the peace in Bedfordshire in most years between 1424-48, but not in the present year 1438-39, member of parliament for the shire five times between 1423 and 1442, commissioner in 1430-31 to raise a loan in the county (*Cal. Pat.* 51, 125), etc. At his death, which is reported 1456-57, it is sur-

Faunhope. He was asked yif thei alle knewe wel that the lord Faunhope was in the towne of Bedford and yif thei hadde eny speche of him amonges theime iiij^e and to all this he answered ye. He was demaunded yif he sent to the lord Fanhope eny word of theire beyng there to geders or warned him that thei wolde procede in the cessions or elles that thei taried unto his comyng to euerich of this he answered nay, but thei iiij^e sat downe and proceded not to the sessions but communed to geders. He was asked yif he and his felaws such time as the lord Faunhope come to theime dede him eny reuerence or what countenance thei made, he seid that his thre felaws stode up and he sitting stille avaled his hode. He was asked hou the lord Faunhope demened him after his comyng to theime. And he answered that he sat him doune and callid to him John Fitz and William Pek [17] and willed theime to sitte downe by him and the seid Fitz aduised the lord Faunhope to take unto him Wawton and Enderby for thei were aboue the seid Fitz in the commission, and the seid lord Faunhope answered theim Nay come and yee will the toon [18] shal be wolcome the tother may chese; and this communicacion had thei sat downe to giders. He was asked hou the rumor and noyse fill amonges theime. He answered by oncurteise langage betwene John Fitz Geffray [19] and a seruant of the lord Faunhops the whiche the seid lord Faunhope bad to answere to that the whiche was seid unto him, and the same seruant forthwith sauyng the reuerence of his lord seid it was fals and so lyued the seid John Fitz Geffray, and forthwith Wawton seith that he seid to the lord Faunhope it is the unruliest session that I haue euer sey in Bedford, and yif it be not otherwise reuled I wol complaine unto the kynges counseill, to the which the lord Faunhope shulde haue seid, complaine as yo wole y defie thi manasing and all thine euel will. Wawton seide he answered I sette litil of thi defiance, and with this there was rumor and noyse in the halle, and soo thei rose up bothe the lord Faunhope Wawton Enderly and all the remenant, and the lord Faunhope stode upon the cheker borde, the whiche borde stode afore the benche. He was asked yif he sye the lord Faunhope drawe eny dagger, he seid forsothe nay. He was asked whether he sawe eny dagger in his hande, and he seid ye. Furthermore he was asked in what wise he helde the dagger in his hande, the point forth, viz. foynyng,[20] or ellis the point towardes his elbowe downward, and to this he said he wist nat. He was also asked yif he sawe the lord Faunhope or any man of his smite eny man or made ony likly countenaunce to smyte, he said nay. He was also asked

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prising to find no lands or tenements of his in Bedfordshire or Buckinghamshire (*Cal. Inq., p. m.*, iv, 276).

[15] A "gentleman" of Westhay, commissioner in 1431 to assess a grant (*Cal. Pat.* 137), named in 1434 among those required to take an oath not to maintain breakers of the peace (ibid. 375), justice of the peace in 1437 (ibid. 578).

[16] of Putnoe, justice of the peace in 1437.

[17] Pekke or Peck, of le Hoo, justice of the peace, 1437–40 and 1443.

[18] = if ye will the one.

[19] of Thurleigh. There was also a John Fitz Geoffrey the younger, both involved in the riot. *Cal. Pat. Rolls*, 282.

[20] = thrusting.

whether the lord Faunhope such tyme as he stode upon the borde labored to the cessing of the rumor and debat or ellis that he stured and moued the pepil to rumor, and he answered that he labored to cesse the noyse and the rumor that was in the halle. He was asked wheder he labored effectuelly or ellis faintly and under colour of his labore soffred harme to be doo. He answered that to his understandyng he labored to the keping of pees, and to stynte the noyse and Rumor that was in the halle and alsoo diligently as euer he sawe man. He was asked what the seid lord Faunhope dide such tyme as the noyse was cessed, he answered that he went unto his ynne and with his oune seruantz lete feleshipped the seid Wawton and other of his felaws unto theire logginges for theire more seuretee, and the lord Faunhope willed Wawton to haue come dronken with him as he hadde Enderby, seyeng to Wawton that he sholde be welcome for he yaf him drink whiche he hadde lesse cause to loue thanne som menyng be Enderby.

John Enderby called before the counsail in fourme as it is reherced of Thomas Wawton in like wise swore upon a boke[21] to sey the trouth in the mater abouesaid, the which he promised to doo. Examined upon the first article he seide at the tyme of makyng the certificat the which was sent unto the kyng his felaws and he were in difference and discorde not for than he sette his seal therto. As to the secunde to the thridde to the fourthe to the fifte to the vi^{e} and to the vii^{e} articles he accorded in alle his deposicion and answere with Thomas Wawton. As to the viii^{e} he seide that thei stode up alle such tyme as the lord Faunhope come to theime. As to the ix^{e} and the x^{e} article he accorded in substance with the seid Wawton, confessing alsoo that he him selfe drewe out his owne dagger and in the tyme of the rumor his man brought him a swerd, and in what wise he departed from his dagger he can not sey. As to the xi^{e} article he seith that he sawe not the lord Faunhope to drawe ony dagger, neither that he hadde eny in his hande. Examined upon the xii^{e} and the xiii^{e} articles he accorded with Thomas Wawton no thing varyeng in substance.

John Fitz in like wise as Wawton and Enderby sworn upon a boke and examined answereth as it followeth. In the first and the secunde article he accorded with Wawton. In the thridde the iiij^{e} and the v^{e} and the sexte Articles he accorded in his deposicion with Wawton and Enderby. As to the vii article he accorded with Enderby and not with Wawton. As to the viii^{e} article he accorded alsoo. As to the ix^{e} article he accordith with Wawton. In the x^{e} article he accordith with Enderby bothe that he sawe the lord Faunhope to drawe no dagger neither that he hadde eny in his hande. In the xi^{e} and xii^{e} articles he accordith with Wawton and Enderby. And also in the xiii^{e} article nothing chaungyng in substance.

Harry Etwell examined and sworn upon a boke to sey trouth. In the first article he accordith with his felaws. In the secunde article he accorded also with his felaws saue he varied in nombre seyng that the lord Faunhope come to Bedford with xl or l persones. In the iij^{e} the iiij^{e} the v^{e} articles he accordid with his felaws. In the vii^{e} and the viii^{e} articles he accorded with Enderby. In the ix^{e} and the x^{e} articles he accordith with Wawton. In the xi^{e} xii^{e} and xiii^{e} articles he accordith with his felaws.

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[21] A copy of the gospels was regularly kept in the Star Chamber.

The xxiiij^{ti} day of Feuerer[22] the yere aboueseid at Westmynster Thomas Stratton[23] undershereue of Bedford in the presence of the high and mygti prince the Duc of Gloucestre the Bisshop of Bath Chaunceller of Englande therle of Sarum the lord Cromwel tresorer of Englande, the lord Hungerford, William Lyndewod keper of the kynges priuie seal the kynges counsaillours, swore upon a boke to make trewe and juste answere in that shuld be demanded him of the Ryot doon at Bedford. First he was demanded yif he was priue of the certificat that was made unto the kyng by Wawton Enderby Fitz and Etwell, and he seid ye. More ouer he was demanded where he sat at the cession tyme, and he answered at the lord Faunhope sete inasmoche as he was clerc of the cessions. He was asked hou the rumor began, and he therein accorded with the seyng of Wawton and so he dede in alle his deposicions sauyng in the xi^{e} article he varied from alle seyeing that the lord Fanhope suche tyme as he stode upon the cheker borde he made countenance towardes Enderby as he wolde haue smete him, but he seith he smote him not.[24]

[*Signed:*] Adam Moleyns.[25]

C

To the kyng oure souerein lord.

Moste louely sheweth unto youre highnesse youre humble liegeman Johan Cornewayll', knyght, lord of Faunh[ope]. Wher . . .[26] unto youre moste noble grace for riottis that haue be don in youre shire of Bedford by suche as oweth him . . . desired to brynge forth the trouthe into open knowliche, upon the whiche the said suppliantes accusers haue b . . . as they had put certificatt of the same matiere unto your highnesse, upon whiche he besecheth in moost louely . . . to comaunde unto your Chaunceller that he such matiers in writyng and other examinacion that hath be had a . . . chauncelrie and there to be enacted be fore yow of record, and doo put in exemplificacion in due and used fourme . . . and that in the worship of God and in wey of charitee.

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[22] Upon this day there was a large attendance of lords in the council, which was transacting other business in the usual manner. Among those present was Lord Fanhope himself. Nicolas, *Proceedings*, v, 282.

[23] of Biggleswade. *Cal. Pat.* 282.

[24] Upon the outcome of the affair see Introd., p. cxiv.

[25] Clerk of the council, 1436–42, member of the council in 1443, keeper of the privy seal in 1444, and bishop of Chichester 1445–50. He has a characteristic signature made with a paraph after his name.

[26] The right-hand edge of the membrane is torn away.

[*Endorsed:* —] The kyng hath graunted this bille in is grete consail the xxiii day of Feuerer the xvii yere of is regne, commaunding that such lordis as were present att the examinacion of the which the mater is comprised in a copye hereto annexed shold se the same examinacion that it were truly ennacted, the which they haue don, and more over after the king chargeth that the keper of is priuay seel by warant under the same seal commaunde the Chaunceler of Englond that he do exemplifie the same examinacion and the certificait sende unto the kynge upon the same mater in duwe forme.[27]

[*Signed:*] Adam Moleyns.

GIFFARD *v.* MORTON[1]

1444 Trusty and welbeloued. For asmoche as we haue understande by the supplicacion of our welbeloued Thomas Gyffard [2] of the countee of Devonshire How the sonday in the feste of thinuencion of the holy crosse [3] last passed Isabelle late the wyf of William Forde [4] and Johane hir doughtor of the age of xii yere cousin to the said Thomas he hauyng the gouernance aswel of the said Isabelle as the warde of the body and landes of the saide Johane thei beyng in the parissh churche of Parkham [5] in the foresaid countee with the wif [6] of the forsaid Thomas heryng theire diuine seruice oon Richard Morton [7] of litell Morton in the countee of Cornewaille gentilman, John Piers [8] of the parissh of West Potteford [9] in the countee of Deuonshire aforesaid husbondman with a grete multitude of people unknowen, arraied in maner of werre entred in to ye said churche and made assaute and affray upon the said Isabelle and Johane and taken by the same Isabelle Johane and ye wif of the said Thomas for relieue and secour the vestrary of the said churche with the dore shotte unto theim the said misdoers felonousely as riottours breking the same dore made assaute to the wif of the said Thomas and the said Isabelle and Johane felonousely and ayenst oure pees vanisshed and ladde away and yit kepeth thaim not oonly to the hurt harme heuynesse and wrong of the said Thomas and his wif the said Isabelle and Johane but also unto the perillous ensample corraging cause and occasion of other like misdoers to doo and attempte like riott or worse in tyme comyng on lesse than sherpe and due punisshement and coreccion be had and doon in this behalf.[10] We therefore hauyng consideracion to the premisses willing correccion be doon in this partie as we be bounden to, woll an charge you straitely that called unto you suche strength as shal seme unto you necessaire of the same shire ye doo take and arreste the said misdoers and all other of whom ye shal haue knouliche were helpers unto ye said riottes in what shire euer thei may be founde wherto we yeue you pouer by thees oure letters, and thaim so arrested and tached do bring sauely in alle possible hast before us and oure counsail where so euer hit be for to answere to the mater aboue said. And in cas thai may not be founde, We woll that ye doo make proclamacion in suche places as you shal seme good that the said misdoers be and appere be fore us and oure counsail at suche a day as shal be semed unto you and the foresaid Thomas to be asseigned for to answer to suche maters as shal be declared unto thaim at theire comyng upon the feith and ligeance that thei owe unto us and also that ye take the forsaid Isabelle and Johane wher thei may be found restoring the said Isabell to hir libertee and the said Johane to the possession of the said Thomas willing furthermore and chargeing you that ye be attending with other commissioners with whom we haue assigned you by our letters undre oure greet seel to sitte and enquere in this same matere certifiyng us and our said counsaill as wel of thinquerre by thaim and you to be taken in this partie as of al tho persones whiche be rebelle or contrary to thexcucion of this oure commandement and we wol that upon the paine of v^c li. ye leue not this in no wyse yeuen at Westminster the viii of May the yere, &c., xxii.

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[27] The exemplification was made, as has been said, and its tenor stated in the letters patent of 7 March granting pardon to Lord Fanhope and all his associates. *Cal. Pat.* 17 Hen. VI, 246.

[1] *Council and Privy Seal* (Exch. T. R.), file 73, 8 May, 22 Hen. VI.

[2] Descendant of Walter Giffard of the Norman Conquest through a younger branch, which formed a well known Devonshire family, the Giffards of Halsbury (J. L. Vivian, *Visitation of Devon*, pp. 396–97). This Thomas was appointed in 1438 deputy of the king's butler in the posts of Barnstaple, Ilfracombe, and Bideford (*Cal. Pat.* 222), and in 1444 and 1445 served on commissions of inquisition in the county (ibid. 338, 440).

[3] 3 May, 1444.

[4] Son and heir of John Ford who held a parcel of the manor of Moreton (Prince, *Worthies of Devon*, p. 314), also mentioned as a bailiff of William Beauchamp, sheriff of Devon, 1439–40 (*Cal. Pat.* 19 Hen. VI, 501).

[5] A notable parish in Hartland in the northwest corner of the county bounded by the sea. A handsome Gothic church dating from the fifteenth century is still standing. A cliff rising above the sea at this point is known as Clifford's Jump. Polwhele, *Hist. of Devon.* iii, 419 n.

[6] Her name is given as Wilmot. Vivian, *op. cit.; Cal. Pat.* 22 Hen. VI, 288.

[7] Mentioned as "gentleman." *Cal. Pat.* 288.

[8] A husbandman. Ibid.

[9] West Putford, an inland parish near Parkham southwest of Bideford.

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[10] Frequent outrages of this character led a few years later to the Statute 31 Hen. VI, c. 9, the preamble of which reads: ". . . in all parts of the realm diverse people of great power, moved with unsatiable covetousness, to the danger of all ladies and other women sole having lands, etc., will take them by force or otherwise get them into possession, and then will not suffer them to go until they bind themselves in great sums by obligations; also they compel the women to marry contrary to their likings, or otherwise levy sums on their lands and goods." For remedy the party aggrieved was to have a writ out of the chancery directing the sheriff of the county to make proclamation calling such persons to appear before the chancellor or before the justices of assize, who having examined into the matter might annul all obligations incurred in this manner and inflict penalty to the extent of £300.

To the Cherrief of the countee of Deuenshire. Item semblables letters to the justices of pees there, sire William Bonevill[11] knyght, William Bourchier[12] Squier and William Hendeston[13] mutatis mutandis.

viii die Maii Anno etc. xxii. Rex apud Westmonasterium de aduisamento sui concilii mandauit custodi priuati sigilli litteras fieri facere sub eodem sigillo secundum formam suprascriptam presentibus dominis Cardinali Anglie, Cancellario, Episcopo Bathon' et aliis.[14] [*Signed:*] KENT.[15]

RELEASE OF THE SURETIES OF JOHN DAVY[1]

1450–1 Placita coram domino Rege in Cancellaria sua apud Westmonasterium vicesimo quarto die Augusti anno regni Regis Henrici sexti post conquestum vicesimo octauo.

Memorandum quod vicesimo quarto die Augusti anno regni Regis Henrici sexti vicesimo octauo Willelmus Rawelyn[2] de London, Brewer,[3] Adam Turvey de London, Brewer, Thomas Smyth de London, Brewer, Willelmus Nicholl de London, Brewer, Iohannes Wykeham de London, yoman, et Thomas Mollesley de London, Drover, coram eodem Domino in Cancellaria sua personaliter constituti manuceperunt pro Iohanne Davy de London, Brewer, videlicet quilibet eorum corpus pro corpore et sub pena mille librarum, quod idem Iohannes Davy personaliter comparebit coram dicto domino Rege in Cancellaria sua predicta vel coram consilio suo super debita premunicione eidem Iohanni Davy ex parte domini Regis supradicti facienda, ubicumque idem dominus Rex aut dictum consilium suum fore contigerit in Anglia, ad respondendum super hiis que sibi ex parte dicti domini Regis obicientur tunc ibidem, et ad faciendum ulterius et recipiendum quod Curia nostra considerauerit in hac parte, quam quidem summam quilibet manucaptorum[4] predictorum concessit de terris et catallis suis ad opus dicti domini Regis leuandam, si prefatus Iohannes Davy coram prefato domino Rege in Cancellaria sua predicta vel coram dicto consilio suo in forma predicta personaliter non comparuerit. Et postea, videlicet vicesimo octauo die Maii tunc proxime sequentis idem Iohannes Davy protulit venerabili patri Iohanni Cardinali et Archiepiscopo Ebor', Cancellario Anglie,[5] in Cancellaria predicta quoddam breve predicti

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[11] Steward of the duchy of Cornwall 1438–52 (*Cal. Pat.* 30 Hen. VI, 526), justice of the peace in Cornwall, 1442–51, in Somerset, 1441–42, and in Devon, 1443–44.

[12] Of Fitzwarren, justice of the peace in Shropshire, 1443–45, and in Devon, 1444 and 1447–51.

[13] Justice of the peace in Devon, 1443–44 and 1447–51.

[14] This commission to inquire into the matter was issued 12 May; it included the names also of John Giffard and several others. *Cal. Pat.* 288.

[15] Master Thomas Kent, doctor of civil and canon law, probably a graduate of Cambridge, and reputed for his learning. He was either an unfrocked clergyman or a layman, for he had an acknowledged wife. He became clerk of the council in 1443, at the same time that he was made secondary clerk in the office of the privy seal (ibid. 235); he was appointed sub-

[*Translation:* —] On the 8th of May, 22nd year etc., the king at Westminster by the advice of his council commanded the keeper of the privy seal to have letters issued under the same seal according to the form written above, there being present the lords the cardinal of England chancellor, the bishop of Bath and others. [*Signed:*] KENT.[15]

RELEASE OF THE SURETIES OF JOHN DAVY[1]

1450–1 Pleas before the lord the king in his chancery at Westminster, the 24th of August in the 28th year of the reign of King Henry VI.

Be it remembered that on the 24th of August in the 28th year of the reign of King Henry VI William Rawelyn[2] of London, brewer,[3] Adam Turvey of London, brewer, Thomas Smith of London, brewer, William Nichol of London, brewer, John Wykeham of London, yeoman, and Thomas Mollesley of London, drover, having appeared in person before the said lord in his chancery, gave surety for John Davy of London, brewer, that is each of them body for body and under penalty of a thousand pounds, that the same John Davy will in person appear before the said lord the king in his aforesaid chancery or before his council, upon due warning to be given to the same John Davy on the part of the aforesaid lord the king, wherever the said lord the king or his said council shall be in England, to answer for those things which shall be laid against him there on the part of the said lord the king, and to do further and receive what our court shall determine in this matter; which sum indeed each of the aforesaid mainpernors[4] conceded should be levied from their lands and chattels to the use of the said lord the king, if the aforesaid John Davy shall not appear in person before the aforesaid lord the king in his aforesaid chancery or before his said council in the aforesaid manner. And afterwards, namely on the 28th of May next following, the same John Davy in the aforesaid chancery offered to the venerable father John cardinal and archbishop of York, chancellor of England,[5] a certain writ of the aforesaid lord the king,

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constable in 1345 (ibid. 348). In 1347 he was granted the lordship and manor of Langley, Co. Kent, formerly held by Cardinal Beaufort (*Cal. Pat.* 22 Hen. VI, 244). He was implicated as a Yorkist in Jack Cade's rebellion, and was among those indicted in 1450 in Kent (Kingsford, *Hist. Lit. of 15th Century*, p. 364). He seems to have stood in the favour of Richard Duke of York. In 1458 he shared his offices of clerk of the council and secondary of the privy seal with a younger man Richard Langport (*Cal. Pat.* 425). Like several of his predecessors he was finally admitted to membership in the council. His last appearance was on 3 July, 1462 (*Tenants* v. *Waynflete*, infra), and his death occurred soon after.

[1] *Placita in Cancellaria*, file 29, no. 21.

[2] In 1458 he was given an assignment of £677, 19s. 7d. out of the farm of Cambridge for ale delivered by him to the royal household (*Cal. Pat. Rolls*, 430). In 1462 he was one of the supervisors of all beer brewers in England (ibid. 75).

[3] The brewers formed a gild in the fourteenth century and were incorporated as a company in 1437–38. They possessed a hall in Addle Street, Cheapside, where feasts were held. W. C. Hazlitt, *Livery Companies of London* (1892), pp. 380 f.; P. H. Ditchfield, *City Companies*, pp. 199 f.

[4] On mainprise, see p. 45, supra.

[5] John Kemp, chancellor, 1450–54.

domini Regis sub priuato sigillo suo eidem Cancellario directum et in filaciis eiusdem Cancellarie residens factum, cuius tenor sequitur in hec verba. Henry, be the grace of God Kyng of England and of Fraunce and Lord of Ireland, to the most reuerent Fadyr in God John, Cardinall and Archebusshop of York, primat of England, oure Chanceller, gretyng. We haue undirstonde be the supplicacion of oure welbelouyd liege John Davy, Citezeyn and Brewer of our Cite of London, howe that not long a goo for as moche as he wold not agree nor consent for causes resonable, suche as moued hym, that oone Gefferey Bokley,[6] which was at host and logged with hym, shuld haue his doughtre to wyfe, the said Geffrey of malice and euill will causid the said John Dauy to be arrestyd and imprisoned, surmyttyng that he shuld haue said diuers wordis ayenst oure estate and dignite, not declaryd any thyng in especiall what the wordes shuld be. Wheruppon, how be it that the said John Dauy neuer thought, as he sayth, nor said, as we bene enformyd, eny thyng of us otherwyse thanne a trewe liege man oughte to thenke or say, yete neuerthelesse or he myght be take to bayle he founde surete in oure Chauncere be fore you, as it is said, of vi^{m} li. to be redye att all tymes to answere to that that any man woll sey uppon the said surmyse ayenst hym, under the which surete he yit so stondeth, unto grete hurt and hinderyng as well of hym as of them that were and bene borowes and sureteiis for hym in that behalfe, with outyn oure grace be shewed to hym in this partie. Wherefore we consideryng the premissis and that no man seth the tyme of arest of the said John Davy hiderto, as we be credible acerteyned, hath offerid hym selfe any thyng to declare ayenst hym in the mater abouesaid. We will and charge you that ye do openly and solemply to be proclamed in oure said Chauncere, that if any man can or will any thyng say ayenst the said John Davy in the matier aboue said, he come within a certeyne day resonable by you to be lymyted, and he shall be hard, and if so be that the said day so to be lymeted by you commyng, withynne the which nor at the which noo man allegge declare or purpose any thyng ayenst the said John touchyng the surmyse aboue rehersid, we wyll and charge you that thenne ye utterly discharge the said John and his borowes and euerych of them of the surete in the which he and they bene bounden to us in oure said Chauncery for the cause abouesaid, and them and eche of them relesse, quytte and dysmysse freely out of our said Court for that cause for euermore. Yeuen under our priue seall at Westminster the xxvii day of May the yere of oure raigne xxix. Cuius quidem breuis pretextu prefatus Cancellarius per auisamentum et assensum Iusticiariorum, seruientum predicti domini Regis ad legem et aliorum peritorum de consilio suo per tres dies continuos in Cancellaria predicta solempniter proclamari fecit quod si quis prefatum dominum Regem vel consilium suum informare vel aliquid pro ipso domino Rege erga seu contra prefatum

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[6] Mentioned in 1457 as *alias* Messager, late of London, receiving a pardon of outlawry. *Cal. Pat. Rolls*, 353.

under his privy seal directed to the same chancellor and remaining in the files of the same chancery, the tenor of which is in the following words: Henry, etc. [*See opposite page.*]

By virtue of this writ the aforesaid chancellor indeed by advice and assent of the justices, the serjeants-at-law of the aforesaid lord the king, and other learned men of his council for three successive days caused it to be solemnly proclaimed in the aforesaid chancery that, if anyone wished to inform the lord the king or his council or to allege or charge anything in

Iohannem Davy in materia supradicta allegare vel obicere vellet in Octabis Sancti Iohannis Baptiste proxime jam preteritum veniret et audiretur. Et quia proclamacionibus predictis ut supradictum est solempniter factis nullus ad Octabas predictas venit ad informandum dictum dominum Regem nec consilium suum seu aliquid pro eodem domino Rege versus predictum Iohannem Davy in materia supradicta allegandum vel obiciendum, ideo predictus Iohannes Davy per dictum dominum Cancellarium et auctoritate breuis predicti dimissus est de Curia Cancellarie[7] supradicta quietus sine die, ipseque et manucaptores sui in hac parte occasione premissorum penitus inde exonerantur et eorum quilibet exoneratur, etc.

HEYRON *v.* PROUTE AND OTHERS[1]

1463 Rex uniuersis Christi fidelibus ad quos presentes littere peruenerint salutem. Ad uniuersitatis vestre noticiam deduci volumus per presentes quod dudum, videlicet anno incarnacionis dominice Millesimo quadringentesimo sexagesimo coram dominis consiliariis magni videlicet consilii[2] Henrici nuper gerentis se pro Rege Anglie post conquestum sexti in possessione eiusdem regni tunc de facto existentis ad audiendum terminandum et decidendum causas questiones et controuersias quascumque in dicto regno pro tempore motas iudicibus competentibus mota fuit et a diu pendebat atque de presenti pendet indecisa quedam causa siue querela spoliacionis seu subtraccionis certarum lanarum Ricardi Heyron[3] quondam ciuitatis nostre London' et mercatoris stapule ville nostre Cales' ac certarum injuriarum eidem Ricardo Heyron per Iohannem Proute[4] Iohannem Walden Iohannem Tate[5] et alios mercatores stapule predicte, ut asseritur, factarum et illatarum, in qua quidem causa per partem predicti Ricardi Heyron proposita et ministrata fuit quedam peticio contra dictum Iohannem Proute, locumtenentem majoris stapule predicte, et alios mercatores eiusdem cujus tenor talis est: Lamentably compleyneth unto your good

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[7] On the court of chancery and its relation to the council, see Introd. pp. xxiii–xxv.

[1] *Council and Privy Seal* (Exch. T. R.), file 89, 5 March, 3 Ed. IV. An exemplification is in the *Patent Roll,* 3 Ed. IV, i, mm. 2-1, from which illegible portions of the record have been supplied.

[2] On the use of the term "great council," meaning not necessarily a large council but rather a council of great men, which might also be a privy council, e. g. *magnum et secretum consilium,* see *The King's Council,* pp. 108 f.

behalf of the said lord the king against the aforesaid John Davy in the aforesaid matter, he should come on the following octaves of St. John the Baptist now passed and be heard. And since, the aforesaid proclamations having been solemnly made, as has been told above, no one came on the aforesaid octaves to inform the aforesaid lord the king or his council or to allege or charge anything in behalf of the same lord the king against the aforesaid John Davy in the aforesaid matter, so the aforesaid John Davy was dismissed by the said lord chancellor and by authority of the aforesaid writ from the aforesaid court of chancery [7] acquitted *sine die*, and he and his mainpernors in this part by reason of the premises are entirely released therefrom and each of them is released, etc.

HEYRON *v.* PROUTE AND OTHERS [1]

1463 The king to all faithful in Christ to whom these letters shall come greeting. We wish it to be brought to the notice of you all that in the year of the Incarnation, 1460, before the lords councillors of the great council [2] of Henry VI recently acting as king of England, who was then in *de facto* possession of the same realm for hearing, terminating, and deciding whatever causes, questions and controversies were moved in the said realm for the time, there was moved before competent judges a certain cause or quarrel, and is still pending, touching the spoliation or sequestration of certain wools belonging to Richard Heyron,[3] formerly a citizen of our city of London and merchant of the staple of our town of Calais, touching also certain injuries committed and inflicted, as it is alleged, upon the said Richard Heyron by John Proute,[4] John Walden, John Tate,[5] and other merchants of the aforesaid staple; in this cause a certain petition on the part of the aforesaid Richard Heyron against the said John Proute lieutenant of the mayor of the aforesaid staple, and other merchants was presented and delivered, the tenor of which is as follows: " Lamentably compleyneth," etc. [*See following pages.*]

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[3] On the complainant and his 20 years of litigation see Introd., pp. cxiv–cxvi.

[4] Lieutenant of the mayor of the staple, himself mayor of the staple and treasurer of the town of Calais in 1470–71. *Cal. French Rolls* (*Dep. Keeper's Report*, xlviii), 448–449.

[5] Mentioned as lieutenant of the staple in 1482. Cely Papers (*Roy. Hist. Soc.* Camden Ser. [1900]), 125.

gracious lordships and grete wisdoms your humble suppliaunt Richard Heyron, merchaunt, oon of the felaschip of marchauntz of the staple late at Calays, that where your seid suppliaunt hauyng grete aqueyntance with diuerse merchauntz estraungers repayryng to Calays aforesaid trusted with the grace of God to haue had good and redye sale and utteraunce of such wolles as he wold schippe and sende thidre in somere last past bought of diuers men within this reamme of Englond wolles of grete and notable value for parte of which wolles youre seid suppliaunt satisfied and paied in hande and for the residue therof endaungered[6] hym to his frendys and with their helpe and socour found sufficiant suretee to pay and contente such persones as the seid wolles were bought of at certeyn dayes betwyxt them accorded and afterward assured our said souerayn lorde of all maner devours to hym in any wyse therof perteynyng and theruppon afterward schipped the seid wolles in the porte of London ther lawfully custumed and coketted and from thens sent the seid wolles to Calays aforesaid and ther solde parcell of the saide wolles to diuers marchauntz estraungers and was in wey of redie utteraunce and sale of all the residue therof. Wheruppon oon John Proute the xiij day of Octobre last past then and yett lieutenant of John Thriske Maire of the seid Estaple hauyng hys full power with in the seid Estaple in his absence by the colour of his office and with thassent of the Marchauntz of the seid Staple then beyng at Calays aforeseid and of the factours of other marchauntz of the seid Estaple maliciously disposed made a restrancte withoute any cause resonable of the sale and utteraunce of all the residue of all the seid wolles which residue amounteth to the value therof xiii$^{\text{ML}}$ marcs sterlings and more and wold not suffer your seid suppliaunt to uttre or sell any parcells therof but utterly putt and estraunged hym from the rule and gouernaunce therof and commaunded all maner broucours weyers porters tresourers clerkys and other officers of the seid Staple to whom it apperteyneth by reason of ther offices to haue any interest medelee[7] or ouersyght of sale and utteraunce of the wolles ther that they in noo wyse shuld suffer but utterly lett and restraine the sale or utteraunce of the same wolles fer which cause the seid wolles ben yet as by youre seid suppliaunt unuttred and he full piteously there endurest in sore and strecte prison by the meanes of the seid lieutenant and other marchauntz and factours there so that he may neither be at his large ne libertee to come speke write nothir sende to any of his frendis for his help and relief in the premisses but utterly is put from the rule and gouernaunce of the same, howe be it that your seid suppliaunt at the fyrst restraynte of the same offred to fynde sufficiant suerte within the saide Staple sufficiently to answer to all matiers that coude be obiected ayenst hym ther or in Englonde by reason of the seid Wolles or eny parcell therof and such merchauntz

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[6] = indebted. The wool was commonly paid for by bills due at six months. *Cely Papers*, p. xiii.

[7] = concern.

[*Text continued from opposite page.*]

estraungers as he commoned withall ther for the sale and utteraunce of the same wolles put from such bargaynes as they trusted to have had therin to the great infamye myscredence and unportable hurt of youre seid suppliaunt and to the grete charge of his frendes and damages of your said suppliaunt of xx$^{\text{ML}}$ marcs. Please it youre seid good graceous lordschips and grete wysdoms the premisses tenderly to consider and forasmoch as your seid suppliaunt hath no remedy for the premisses after the cours of comon lawe nor none may have ther that the saide Mair and other Marchauntz of the saide Staple beyng her in Englond such as shalbe thought most expedient in this behalf may be compelled by privey Seal or otherwise as your grete wisdoms wull assigne personelly to aper afore your seid good gracious lordeschips att a certeyn day and place by you to be lymyted ther and than to answer to and for the premisses and theruppon to prouyde and ordeyne such remedye and redresse therin as shall be thought to youre gracious lordschips most conuenient and resonable for reformacion of the same att the reuerence of God and in wey of charite. Also please it your seid lordschips to remembr that the saide unlawfull restraynte was made in maner and fourme aforeseid after such tyme as by the grete labour and suertee made by the hole felaschip of the said Staple unto our seid souerayn lord and his counsell in somere last passed there was a suertee made that ther shuld no restraynte be made of any sale of wolles at the seid Staple the space of iii yere then immediatly folowyng. Et eidem peticioni prefati Iohannes Walden at Iohannes Tate Mercatores Stapule predicte respondebant sub sequenti serie verborum. The seid John Walden and John Tate for ther answer to the same seuerelly seyn that the mater conteigned in the seid byll is not materiall ne sufficient [8] to put them to answer therto and that by the same bill ther is noo wrong trespas ne offence surmitted to be don to the seid Richard Heyron by them in any wyse and they say moreouer that they neuer procured stiryd abbetted ne executed in any maner forme any restraynte to be made of the wolles of the same Richard Heyron specified in the seid byll ne of eny parcelle therof ne of the sale ne utterance of the same Wolles ne neuer caused procured counseiled ne stured the seid Richard Heyron to be taken arrestyd emprisoned or put in duresse in any wise all the which matiers they be redy to verify by all means lawfull and convenient wherfore they pray to be discharged of their vexacion by colour of the seid bill as lawe reson and conscience requireth. Et postea pars dicti Ricardi Heyron quandam aliam peticionem contra predictos Iohannem Proute Iohannem Walden Iohannem Tate Rogerum Knyght Willelmum Holte Ricardum Cely[9] et Willelmum Broun Mercatores Stapule predicte dedit et ministrauit huiusmodi sub tenore, Lamentably complayneth unto your good gracious lordschips and grete wysdoms your humble suppliaunt Richard Heyron Marchaunt oon of the felaschip of the Marchauntz of the Staple late at Calays that wher your seid suppliaunt hauyng grete aqueyntance with diuers Marchauntz estraungeres repayryng to Calays aforeseid trusted with the grace of God to haue had good and redy sale and utteraunce of such wolles as he wold schip and send thider in Somere last passed bought of dyuers men within this reame of England wolles of great and notable value for parte of which wolles youre saide suppliaunt satisfied and paied in hande and for the residue therof endaungeryd hym to his frendys and with their helpe and socour fonde sufficient suerte to pay and contente such persones as the seid wolles were bought of at certeyn dayes betwixt them accorded and afterward sufficiently assured oure seid souerayn lorde of all maner devoirs to hym in any wyse therof perteynyng and theruppon afterward schipped the said wolles in the porte of London ther lawfully custumed and coketted and from thens sente the seid wolles to Calays aforeseid, and there sold parcell of the seid wolles to dyvers Marchauntz estraungiers and was in wey redy utterance and sale of all the residue therof wheruppon oon John Proute the xiii^th^ day of October last passed thanne and yett lieutenant of John Thriske Mayre of the said Staple hauyng his full power within the said Staple in his absence by colour of his office by the commaundement sturyng procuryng and assente of the said Maire John Walden John Tate Rogier Knyght of Lincoln William Holte of London Richard Cely of the same and William Broun of Stamford Marchauntes of the saide Staple and the factours of them and the factours of other Marchauntz of the said Staple then beyng at Calays maliciously disposed at Calays aforeseid made a restraynte withoute eny cause resonable of the sale and utteraunce of all the residue of the seid Wolles which residue was cclx sarplers of Cottiswold[10] wolle and xv sarplers of Clyft[11] wolle amountyng to the value of xiii^{ML} marcs sterlings and more and woll not suffre your saide suppliaunt to uttre or sell any parcell therof but utterly putt and estraunged hym for the rule and gouernaunce therof and commaundyd all maner brocours weyers porters tresoures clerkys and other officers of the said Staple to whom it apperteyneth by reason of ther offices to haue any interest medlee or ouer-

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[8] A demurrer of insufficiency, a plea sometimes meaning that the court has not jurisdiction, that the case pertains to the common law or the ecclesiastical courts; or it may mean, as in the present case, that the bill is lacking in substance, uncertain, or wanting in legal words, or beneath the dignity of the court. If the plea is held good, the defendant may be dismissed with costs. In the present case the petitioner was required to amend his bill. For further examples see Leadam, *Star Chamber*, i, xxix, 12, 20, 59, 166.

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[9] Head of the famous family of merchants, who lived to the end of the year 1481. Cely Papers, vi.

[10] The Cotswold hills in Gloucestershire where one of the best grades of wool was produced. Ibid. xxxviii.

[11] Believed to be Clive, Cleeve, or Bishop's Cleeve in Gloucestershire. Ibid. 161.

[*Text continued from opposite page.*]

syght of sale or utteraunce of wolles ther that they in no wyse shuld suffre but utterly lette and restrayne the sale and utteraunce of the said wolles for which cause the seid wolles be yett as your seid suppliaunt unuttred and he full piteuously then and ther endurest in sore and streite prison and yett is by the meanes and sturyng of the seid Maire lieutenant John Walden John Tate Roger Knyght William Holte Richard Cely and William Broun and the said factours ther so that he may neither be at his large ne libertee to come speke write or sende to any of his frendys for his help and releff in the premisses but utterly ys put from the rule and gouernaunce of the same howe be it that your seid suppliaunt at the fyrst restrainte of the seid wolles offred to fynde sufficient suertee within the seid Staple sufficiently to answer to all matiers that coude be obiected ayenst hym ther or in Englonde by reason of the said wolles or any parcell therof and such Marchauntz estraungers as he commoned withall ther for the sale and utteraunce of the same wolles put from such bargeyns as they trusted to haue had therin to the grete infamye myscredence and unportable hurte of your said suppliaunt and to the grete charge of his frendes and damages of your seid Suppliaunt of xx^{ML} marcs. Please it your gracious lordschips and grete wysdoms the premisses tendyrly to consider and for as moch as your said suppliaunt hath not remedy for the premisses after the cours of the comen lawe ne non may haue there that the seid Maire John Walden John Tate Rogier Knyght William Holte Richard Cely and William Broun may be compelled by writtes or by letters of prive seall or otherwyse as your grete wysdoms wolle assigne personally to aper afore your said good gracious lordschips at a certayn day and place by you to be lymyted ther and then to answer to and for the premisses and theruppon to prouyde and ordeigne such remedie to your said suppliaunts therin accordyng to the statute[12] in such cas prouyded and ordeigned as shall be thought by your said gracious lordschips conuenient and resonable and this for the love of God and in wey of charite. Cui quidem peticioni dicti Iohannes Walden Iohannes Tate separatim respondebant negatiue in scriptis prout sequitur. Wher it is supposed by the same bill that oon John Prout lieutenant of John Thriske Maire of the Staple of Calays the xiij day of October last passed by colour of his office by the commaundement sturyng procuryng and assent of the Maire John Walden John Tate and other named in the same bill Marchauntes of the saide Stapel then beyng at Calays made a restraynte at Calays aforeseid of the sale and utteraunce of cclx Sarplers of Cottiswolde wolle xv sarplers of Clyfte woll of the seid Richard Heyron amountyng to the value of xiii$^{\text{ML}}$ marcs Sterlings and more and wolde not suffer hym to uttre to sell any parcells therof but utterly put and estraunged hym fro the rule and gouernaunce therof and commaunded all maner of brocours weyers porters tresourers Clerkys and other officers of the seid Staple that they in noo wyse shuld suffer but utterly let and restrayne the said sale and utteraunce of the said wolles thereto the seid John Walden and John Tate seuerally answer and say that they commaunded not stured ne procured in any wise the said Proute or any other person to make any restrancte of the sale and utteraunce of the saide wolles or of any parcell therof or of eny other thinge to be don in lett of the sale and utteraunce of the same wolles or of any parcell therof ne therto in any wise assented And that they neuer put ne estraunged the said Richard Heyron from the rule and gouernaunce of the saide wolles or of any parcell therof ne willed ne caused any restraynte to be made of the seid sale and utteraunce of the same Wolles or of eny parcelles therof ne commaunded stured procured caused ne willed the saide Proute or any other persone to make eny restrainte or lett of the utteraunce sale rule and gouernaunce of the same wolles or of any parcell therof. Also wher it is supposed by the said byll that the seid Richard Heyron at Calays was and is endurest in sore and strecte prison by the menes and steryng of the said Maire John Walden John Tate and other therto the seid John Walden and John Tate as aboue answer and say that they in noo wyse be gylty ne defectif of the imprisonement of the seide Richard Heyron ne of the trespas wronge ne offense surmitted to be doon hym by the same bill all which

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[12] The Statute 27 Hen. VI, c. 2, provides that no man shall be excluded of his lawful suit by writ of error, of any judgment given before the mayor and constables of Calais, and that the chancellor of England and the king's council shall not be excluded from redressing the faults of the said mayor and constables under the Statutes 27 Ed. III.

[*Text continued from opposite page.*]

matieres thay be redy to varyfe by weys and meanes resonable wherfore they pray to be dysmyssed of the seid sute as reason and conscience requireth. Et postmodum pars dicti Ricardi Heyron contra responsionem huiusmodi dicti Iohannis Walden Iohannis Tate et aliorum cum eo superius nominatorum replicauit[13] in scriptis prout sequitur. The seid Richard Heyron seith that the seid John Walden and John Tate with the remanaunt named in the bill of the seid Richard Heyron commaunded stered and procured the seid John Proute to make the restraynte of the sale and utteraunce of the seid cclx sarplers of Cottyiswold woll and xv Sarplers of Clyft woll as it is specified in the bill of the seid Richard and also caused a restrainte to be made of the sale or utterance of the same wolles and stured procured and caused the same John Proute and the seid officers specified in the seid bill of the seid Richard to make restraynte and lette the utterance sale rule and gouernaunce of the same wolle in maner and forme as is supposed by the seid bill and also they be gylty of the durest of enprisonnment of the seid Richard like as he hath surmytted in his seid bill. And also they be gulty of all the trespas wronges and offenses surmytted by the bill of the seid Richard Hayron in maner and fourme as by the same bill is supposed, the which matiers and euerich of theim shalbe proved by all such meanez as shalbe thought to your seid lordshippez resonable and forasmoch as they withsey not by dedez and actez of their factours all that tyme beyng at Calys the seid Richard praith that gode and hasty remedy maybe had in the premissez for the loue of god and yn way of cheryte.

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[13] Replications are not often found. Since they were not permitted to contain any new allegations, they were apt to be merely perfunctory.

Sicque causa huiusmodi inter partes et personas antedictas ut premittitur mota in dicto regno nostro Anglie cepta adhuc de presenti coram nobis et prefatis dominis consiliariis magni consilii nostri pendet indecisa, prout de premissis omnibus et singulis ex processu et recordo actisque in ea parte factis et habitis euidenter et notorie liquet. Nosque et domini consiliarii magni consilii nostri dicti regni nostri Anglie Iudices in hac parte competentes sumus et omni tempore erimus prompti et parati partibus predictis in premissis et ea concernentibus quibuscumque iusticie facere complementum. Que omnia et singula premissa ad omnem iuris effectum qui exinde sequi poterit vobis omnibus et singulis significamus notificamus et intimamus per presentes. In cuius etc. Datum etc. [Teste Rege apud Westmonasterium quinto die Marcii.

per breve de pruiato sigillo et de dato etc.]

In palacio suo Westm' quinto die Marcii anno etc. tercio Rex de auisamento sui consilii voluit et mandauit custodi priuati sigilli sui fieri facere litteras sub eodem sigillo domino Cancellario Anglie dirigendas mandando eidem quatinus sub magno sigillo fieri faciat litteras patentes secundum tenorem suprascriptum. Presentibus Dominis Cancellario,[14] London',[15] Norwicen',[16] Elien',[17] Lincoln',[18] Warr',[19] Priore Sancti Iohannis,[20] Hastynges,[21] Cromwell,[22] Ryuers,[23] Dacre,[24] Ruthyn,[25] Wenlok',[26] Mountacu,[27] etc. [*Signed:*] LANGPORT.[28]

TENANTS *v.* WAYNFLETE[1]

1462 R. E.[2] By the kyng.

Trusty and welbeloued. Howe it be that upon the complaintes made by the tenantes of the Reuerent fadre in God, the Bishop of Wynchestre,[3] and in especiall of the lordship of Estmeone[4] in our countee of Hampshire in our last parlement,[5] the matiers concernyng the said complaintes were rypely examyned, and either partie herd, as ferre as they or any of thaym coude shewe or allegge for himself. And finally by the consideracion of the grete proves shewed on the behalf of the said Reuerent fadre in God, and noon resonable matier shewed by the partie contrarie that sholde or might

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[14] George Neville, 1461–66.
[15] Thomas Kemp, bishop, 1450–89.
[16] Walter Lehert, bishop, 1446–72.
[17] William Grey, bishop, 1454–78.
[18] John Chedworth, bishop, 1452–71.
[19] Richard Neville, d. 1471.
[20] Robert Botyll, 1439–69.
[21] William, d. 1483.
[22] Humphrey Bourchier, d. 1471.
[23] Richard Woodville, d. 1469.
[24] Richard Fenys, d. 1485.
[25] Edmund Grey, d. 1488.
[26] John, d. 1471.
[27] John Neville, d. 1471.

[28] Clerk of the council, 23 July, 1461, granted the office jointly with Thomas Kent, sole clerk on the retirement of Kent in 1462 (*Rot. Parl.* v, 216; *Cal. Pat.* 126). He is mentioned as rector of Bradwell in Essex and prebendary of St. Mary Ottery in Devon, and in 1462 was granted the manor of Somersbury in Surrey, to hold so long as it remained in the king's hands (*Cal. Pat.* 80, 170). He either resigned or was dispossessed of the office at the accession of Henry VII (Leadam, *Star Chamber*, i, 12).

[1] *Chancery Warrants*, series i, file 1547.

And so this cause which has been moved between the aforesaid parties and persons, as previously narrated, and begun in our said realm of England, still at present pends before us and the aforesaid lords councillors of our great council undecided, as is made evident and notorious from each and every point in the foregoing process and record and from the acts done and performed in this matter. We indeed and the lords councillors of our great council of our said realm of England are competent judges in this matter and will always be prompt and ready to give the aforesaid parties full measure of justice in the premises and everything relating thereto. All the foregoing statements and every one of them to every end of justice that can arise we signify, announce, and impart to each and every one by the present (letters). In testimony of this, etc. Witness the king at Westminster on the fifth day of March.

By writ of privy seal and of the date, etc.

In his palace at Westminster on the fifth day of March, in the third year, etc., the king by the advice of his council willed and commanded the keeper of the privy seal to have letters issued under the same seal, which were to be directed to the lord chancellor of England, that he should have letters patent issued under the great seal according to the tenor written above. In the presence of the lord chancellor,[14] the bishops of London,[15] Norwich,[16] Ely,[17] Lincoln,[18] the earl of Warwick,[19] the prior of St. John's,[20] lords Hastings,[21] Cromwell,[22] Rivers,[23] Dacre,[24] Ruthin,[25] Wenlock,[26] Montacute,[27] etc. [*Signed:*] LANGPORT.[28]

TENANTS *v.* WAYNFLETE (*continued*)

exclude hym of his right demaunded of his said tenantes, it was aduised and understande that the said tenantes sholde and ought to paye theire rentes and doo and continue their suetes, seruices, workes and custumes to the said Reuerent fader, as they had doon in tyme passed, as more atte large is conteygned in an acte therupon made: yit that notwithstandyng the said tenantes have not only not doo nor observed the said advisement; but also in the monethe of Maye last passed complayned unto us of certaine of their neighbours emprisoned by the said Reuerent fadre. Whereupon

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[2] The sign manual of Edward IV.

[3] William of Waynflete or Wainfleet, bishop of Winchester, 1447-86. For the part he played in Jack Cade's rebellion, first treating with the rebels and then punishing them, and for the consequent disturbances in Winchester and elsewhere, see *Dict. Nat. Biog.*

[4] East Meon, next to West Meon, in the valley of the Meon River. It had belonged to the bishops of Winchester in Saxon times, after the Norman Conquest it was held by the kings, until in the reign of John it was given back to the bishop. The bishops built a palace here which became their favorite residence. It was one of the largest and richest manors, where vineyards were planted. The hundred of East Meon for centuries followed the descent of the manor and is famous for its active life into modern times. *Victoria Hist. Hampshire*, i, 378; ii, 63, 65.

[5] Wherein the tenants had made their complaints and argued their case. A decree was made against them 16 Dec. *Rot. Parl.* v, 475. See Introd. p. cxvii.

we willed thaim to retorne and to sende ayen this fest of Witsontide ii or iii of euery hundred of the said lordship, and also charged the said Reuerent fader to send hider by the same tyme a discrete and a sadde personne or personnes fully instruct of his entent in all thinges concernyng the variaunce betwix him and his said tenauntes, to thentent that we thaym herde and understande might by thauis of our counsaill take suche direction therein as shuld be to the pleasire of God and ease, rest and pees of either partie. And notwithstandyng that, accordyng to our said commaundement, both the counsaill of the said Reuerent fader in God were here redy for that cause, and also, as we understande, a greet compaignye of the said tenantes, yit the said tenantes, for what cause we wote not, sodeinly departed hens, the said matier not herde nor examined, in their owen defaute, to our grete mervayllyng, and also hurt and tediouse vexacion of the said Reuerent fadre in God, and also to his grete charges and expenses. Wherefore we wol and charge you that ye, going to suche places in the said lordship as shal be thought to your discrecion moost expedient, declare and notifie on oure behalfe to alle the said tenantes the premisses, willing and chargyng thaym and eche of thaym that, accordyng to that hath be auised by our counsaill as is abouesaid, they paye their rentes, doo and contynue their seutes, seruices, werkes and custumes, as they aught and haue be accustumed to doo in tyme passed, soo that in their defaute we be noo more vexed nor troubled in that partie, as they wol eschewe the perill that maye falle. And ouer this wol and charge you that ye assiste, strengthen, helpe and fauour the said Reuerent fadre in alle thinges belongyng to your office accordyng to the duetee therof in the conseruyng and kepyng of the ryght and duetees of hym and his churche of Wynchestre accordyng to lawe and right. Yeven etc. at our Castell of Leycester the ixth day of Juyn the secunde yere of our reigne.

To our trusty and welbeloued The Shirrief of our countee of Hampshire.

[*Endorsed:*—] The iiide daye of Juyll' the seconde yere of the reigne of our souuerain and liege lord King Edward the fourthe in the sterred Chambre at Westminster, the same our souuerain and liege lord by thauis of his counsaill commaunded his Chaunceller of England to doo make writtes under the greet seal directed to the shirrief of our countee of Suthampton, and to suche other as shal be thought expedient, commaundyng by the same to make proclamacion as it is remembred in this minute within writen signed with the kynges owen hande, ther beyng present the lordes Tharchebisshop of Caunterbury,[6] the Bisshopes of Excestre,[7] Chaunceller of England, and Norwich,[8] Therles of Worcestre,[9] tresorer of England, and Kent,[10] The prior of Saint Johns,[11] The lord Dacre,[12] The keper of the kinges priue seal,[13] The Dean of Saint Severyngs,[14] John Saye,[15] etc.

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[6] Thomas Bourchier, archbishop, 1454–86.

[7] George Neville, chancellor, 1460–67.

[8] Walter Lehert, bishop of Norwich, 1446–72.

[9] John Tiptoft, treasurer, 1462–64.

[10] Thomas Kent, clerk of the council, 1443–62. See *Giffard* v. *Morton*, p. 108, n.

[*Signed:* —] T. KENT.

NORTON *v.* COLYNGBORNE [1]

c. 1474 To the kyng our souereign lorde.[2]

Mekely besechit your poure orator Thomas Norton [3] of Couuentre Chappeman that where on Henry Horde of Crechirge [4] Marchaunt wasse bowndon in an obligacion of xlv li. of lafull money of Englond to your sayd besecher to be payyd att a certen day longe agonne passyd as in the same obligacion more plenely dothe appere for certen clothe that was bowght of your sayde besecher by the forsayd Henry where uppon your sayd besecher of grete truste he hadde to on Johne Colyngborne [5] esquier of your hosehold And l[at]e Seryve of Wilteschir and for the promise he made to hym to have gete hym hys sayde dute conteynyd in the same obligacion takyng for hys labor as they where agreyd delіueryd hym the saied obligacion where your sayd besecher ofte tymes sythe hath requiryd the forsyd Johne Colyngburne to haue delіueryd to hym the sayd obligacion or the same dute conteynyd there in. And thys to doo he uterly refuse to the grete hurte and undoyng of your sayde beescher without your good and gracious lordeschippe to hym schowyd on that behalve wherfore your saied orator besechyn your good and gracious lordschypp the primez hereof to consydre that the same John Colyngburn may come afore your good and gracious lordeschip to be compellyd to delіueryd to your sayd besecher hys sayd obligacion or hys dute conteynyd there In.[6] And he schall pray to god for your riall and nobyll estate.

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[11] Robert Botyll, prior, 1439–69.

[12] Richard Fenys or Fiennes, knight chamberlain to Edward IV, in 1475 retained as one of the king's council with an annuity of 100 marks. *Cal. Pat.* 15 Ed. IV, 550.

[13] Robert Stillington, keeper, 1462–70.

[14] Peter Taster, dean of St. Severin's, a title pertaining to the Cathedral of Bordeaux, still continued in England.

[15] Of a long established family located in Saysbury, Hertfordshire (R. Clutterbuck, *Hist. of Hertford* [1827], iii, 192 f.). In 1452 John Say was a yeoman of the crown and keeper of the privy palace at Westminster (*Cal. Pat.* 31 Hen. VI, 15), in 1457 coroner of the marshalsea of the household (ibid. 36 Hen. VI, 399), from 1461 justice of the peace in Hertfordshire, and in 1449, 1463, and 1467 knight of the shire and speaker of the house of commons. In 1476 he was keeper of the great wardrobe (ibid. 16 Ed. IV, 597). His death was in 1478.

[1] *Ancient Petitions*, no. 6399.

[2] The address to the king rather than to the council, or the king and council, is a noticeable tendency of the time of Edward IV.

[3] A man of this name is mentioned as one of the common council of Coventry in 1456 and 1469. *Coventry Leet Book* (Early Eng. Text Soc. 1907–13), 285, 352.

[4] Crichurch or Christchurch.

[5] No man of this name appears either as an attendant of the king's household or as sheriff of Wiltshire. There was one William Colyngborne, or Colingbourn, who was repeatedly since 1453 commissioned as a purveyor of the royal household, who was called the king's servant in 1461 and given the custody of the king's park of Ludgershall in Wiltshire (*Cal. Pat.* 15, 78), and in 1464 was serjeant of the king's pantry (ibid. 293). He was sheriff of Wiltshire in 1473–74, sheriff of Somerset and Dorset in 1475–76, and again sheriff of Wiltshire, 1480–81 (*Lists and Indexes*, Pub. Rec. Office, ix), justice of the peace in Wiltshire, 1478–83, and repeatedly commissioner of inquiry in each of these counties (*Cal. Pat. Rolls*). In 1478 he was a commissioner to inquire into the estates of the late duke of Clarence (*Cal. Pat.* 110). He fell under suspicion of engaging in Buckingham's rebellion and was condemned and executed as a traitor in 1484 (ibid. 542). This William Colyngborne was also constantly engaged in litigation collecting debts, and it was probably for some such reason that the present complainant placed the aforesaid obligation in his hands. It is not unusual for a petitioner to be in doubt about a name, as some of our other records show. Moreover the petitioner shows himself to be a very careless man. The date assigned to the petition depends on these circumstances. Between the two possible dates, 1474 and 1481, the former is the more likely, since Colyngborne was then both sheriff and officer of the king's household.

plegii de prosecutione { JOHANNES YONGE DE LONDON SMYTH,
WILLELMUS HAUKE DE LONDON YOMAN.

[*Endorsed:* —] Coram rege et consilio suo crastino Johannis.[7]

POCHE *v.* IDLE[1]

A

1481 To the king our souuerain Lord.

Humbly sheweth unto your good grace your humble and dailly oratrice Alice Poche wyf unto your humble subgiet William Pouche[2] that whereas Thomas Idle decessed in hys lyf housbond unto the same Alice had isse oon Richard son of the said Thomas and Alice and true enheritour unto the manour of Drayton with the appurtenaunces lying in the towne of Drayton[3] within your counte of Oxonford whiche Richard was possessed of the same according to his right unto the tyme that William Idle oncle unto the saide Richard and yonger brother unto the said Thomas Idle willing to pretende title unto the said Manour with thappurtenaunces not withstanding that by thaward of iiij lerned men yeuen by thagrement[4] of bothe parties that the said manour with thappurtenaunces shuld be and remayne unto the said Richard and his heires for euer as right is by force and armes with the maintenaunce of the duc of Suffolk being there in persone accompaynyed with grete nombre of riottous persones warrely arrayed that is to wite with bowes arowes gleves [5] billes [6] swerdes and othre weypons the xvi day of this present moneth of July forcibly and without any just cause or forme of your lawe entred into the said manoir brake the houses and walles of the same in dyuers places toke and ledde awaye the bestes and goodes and beted and chased owt alle the seruauntes and othre persones being within the same. And also the said duc of Suffolk [7] in his owne persone pulled the said Alyce owt of hur chambre and put hir owt of the said Manoir and so thurgh his mayntenaunce the said William Ide which is outlawed hath euer sithen kept and yit kepith the said manoir and goodes from the said Richard and Alice to their grete hurt and damage and to their utter undoing without your prouision and remedye in this behalue. It may therfor please your highnesse to direct your gracieus letters missiues unto the lord lionel Wydeuill [8] whiche is oon of the feoffees of the said manoir willing him by the same to see the said Richard Idle to be put ayen in peacible possession of the said Manoir with thappurtenaunces and the said Alice restored to hur goodes and to help and succour them in their right and that they be not interupted of the same by any maner of supportacion contrary to yur lawes. And also to see suche prouision as that the said duc of Suffolk no further supporte ne maynteyn the said William Ide nor noon of the said Riottous persones other wyse than accordith with your said lawes. This at the reuerence of God to whom your said oratrice shal hertily prey for the conseruacion of your moost noble and royal estate. And ouer this please it your said highnesse to direct your said letters unto William Medley, Colwey, Richard Edmondes, Edmund Whetehile with other being within [the] said manour commaunding them by the same tavoide from thenc and to suffre your said oratrice to occupie the said Manoir according to right and your lawes.

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[6] An equitable case. See Introd. p. xxxiv.

[7] 28 December.

[1] *Council and Privy Seal* (Exch. T. R.), file 92, 31 July, 21 Ed. IV, consisting of A the petition, and B the minute of the consequent writ under the privy seal.

[2] A man of this name, Poche or Pouche, was in 1484 granted for life the office of keeper of the little wardrobe within the Tower of London. *Cal. Pat.* 1 Ric. III, 386.

[3] There were two parishes in Oxfordshire of this name, one near Banbury, the other on the Thames 8½ miles southeast of the town of Oxford. The latter is the larger and probably the one here referred to.

[4] An arbitration, such as was often agreed upon to settle a dispute privately out of court. It was a method especially useful instead of a jury when the question was complicated or technical. Sometimes it was proposed in a spirit of compromise (e.g. *Neville* v. *Neville*, Introd. p. cx). But the method laboured for a long time under many disadvantages: the courts often set such a decision aside on technical ground; however the parties might bind themselves, still the arbitration was not a court and had no process to compel obedience, so that one or the other party might be compelled to go to court for the original matter in dispute, or for a breach of the agreement to accept the award. A needed reform was undertaken in the reign of William III. T. E. Tomlins, *Law Dictionary*.

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[5] Glaive, a weapon composed of a long cutting blade at the end of a staff, possibly 12 or 13 feet long. S. Myrick, *Antient Armour*, i, 29; ii, 125.

[6] Bill, a weapon in the shape of a sickle. Ibid. i, 95.

[7] John de la Pole, second duke of Suffolk (*Dict. Nat. Biog.*). His violent entries into the manors of Drayton and Hellesden in Norfolk are recounted in *The Pastor Letters* (1904), iv, nos. 578, 581, 591, 595, 670. At this very time he was a justice of the peace in Oxfordshire, and sometimes a justice of oyer and terminer (*Cal. Pat. Rolls*).

[8] Lionel Woodville, third son of Richard Earl Rivers and brother of the queen. Though a clergyman, he was much engaged in the material and sordid interests of the day. He was chancellor of the University of Oxford in 1479, bishop of Salisbury, 1482–84, justice of the peace in Wiltshire, 1478–81, in Berkshire, 1482–83, and in the town of Oxford in 1480. Ibid.; *Dict. Nat. Biog.*

B

R. E.[9] By the king.

Trusty and welbeloued we grete you wele. And for as moche as it is doon us to understand by a lamentable complaint made unto us by Alice Poche moder to oon Richard Idle enheritor to the manor of Drayton by right of his fader Thomas Idle decessed somtyme husband to the said Alice and lord of the said manor that William Idle oncle unto the said Richard and yonger brother unto the said Thomas accompanyed with many othere riottous persones in grete nombre warrely arraied that is to say with bowes arrowes gleyves billes swerdes and other wepons the xvi daie of this present moneth of Jule forcibly and withoute any just cause or fourme of lawe entred into the said manor brake the houses and walles of the same in diuers places toke and ledde away the bestes and goodes beeted and chaced out all the seruauntes and other persones being within the same namely the said Alice whiche was in peasible possession of all the premisses to the grete offense of us and oure lawes and utter distruction of the said Alice and Richard hur sone with oute due remedie of oure grace especiall to theim be shewed in this behalf. We therfor woll and commaunde you in the straitest wise that ye duely enformed of the trouth of the premissez put the said Alice hur said son and other by reason of thair title and clayme having interest in the said manor in full possession of the same togidre with alle suche goodes and catalles as by the said riottors wer taken from theim at the tyme of the said riottous entree. Amoving and that ye amove the said William Idle and all other occupiours there by occasion of the said entree from the said manor and all that apperteigneth to the same charging theim to appere afore us and oure counsaill at our paloys of Westminster in the xv^{me} of saint Michell[10] next commyng to aunswer to the premisses. And that ye faile not hereof and to certifie us at the said xv^{e} what by you is doon herein as ye woll answere unto us at your perille. Yeuen under our priue seall at our Castell of Windesore the last day of Juyll the xxi yere of our reigne.

To oure trusty and welbeloued Sir William Stoner[11] knight for our body Umfrey Forster[12] esquier theim or the oon of theim with any othere of oure Justices of peace within our countie of Oxonford.

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[9] The sign manual of Edward IV.

[10] 13 October.

[11] or Stonour, member of parliament for Oxfordshire in 1477, justice of the peace, 1468–83, frequently commissioner of oyer and terminer in the county. He was involved in the rebellion of Buckingham against Richard III in 1483, with the consequent loss of his estates (*Cal. Pat.* 1 Ric. III, 433), but recovered his standing under Henry VII and became sheriff of Oxfordshire and Berkshire in 1485.

[12] A commissioner of array, of inquisition, of gaol delivery, etc., justice of the peace in Oxfordshire, 1460–83. In 1481 he served on a commission of oyer and terminer in association with the duke of Suffolk and William Stoner (*Cal. Pat.* 21 Ed. IV, 289).

WHELE *v.* FORTESCUE[1]

1482 In the sterre chambre at Westminster the secunde daye of Maye the xxij yere of the reigne of our soueraigne lord the king Edwarde the iiij^th^ present my lordes Tharchebisshop of York[2] Chaunceller of England the Bisshoppes of Lincoln[3] priue Seal Worcestre[4] Norwich[5] Durham[6] and Landaff[7] Therle Ryvers[8] the lordes Dudley[9] Ferres[10] Beauchamp[11] Sirs Thomas Borough[12] William Parre[13] Thomas Vaghan[14] and Thomas Greye[15] knightis in full and plenary counsaill[16] was openly radde the Jugement and decree made by my lordis of our said soueraignes lordes counsaill afore that tyme for the partie of Richard Whele otherwise called Richard Pierson decreed made yeven and declared contrarie and ayenst John

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[1] *Council and Privy Seal* (Exch. T. R.), file 92, 26 June, 22 Ed. IV.

[2] Thomas Rotherham, chancellor, 1475–83.

[3] John Russell, keeper of the privy seal, 1474–.

[4] John Alcock, 1476–86.

[5] James Goldwell, 1472–99.

[6] William Dudley, 1476–83.

[7] John Marshall, 1478–96.

[8] Anthony Woodville, second earl, d. 1483.

[9] John Dudley, sixth baron, d. 1487.

[10] Walter Devereux, Lord Ferrers of Chartley.

[11] Richard, son of John Beauchamp of Powyk.

[12] or Burgh, an equerry, master of the king's horse in 1465, knight of the king's body, justice of the peace in Warwickshire, Nottinghamshire, and Lincolnshire; steward, custodian, and surveyor of the king's estates, commissioner of array, etc. (*Cal. Pat. Rolls*). He was one of the ambassadors sent in 1475 to treat with France (*Fœdera*, xii, 15).

[13] or Parr, commissioner of array and justice of the peace in Cumberland and Westmoreland, sheriff of Cumberland in 1471, of Westmoreland in 1475; a king's equerry since 1468, one of the ambassadors sent to France in 1475, a member of the commission appointed in 1482 to hold the office of constable of England (*Cal. Pat.* 317), also one of Edward IV's council.

[14] or Vaughan, keeper of the great wardrobe under Henry VI, justice of the peace in Surrey and Worcester, sheriff of Surrey and Sussex in 1466, equerry and treasurer of the king's chamber in 1469, controller and surveyor of the hanaper in chancery (ibid. 124), chamberlain of the Prince of Wales in 1471 (ibid. 283), surveyor and demiser of various estates in the king's hand.

[15] or Grey, of Little Tilbury, Essex; an equerry and knight of the king's body, a Knight of St. George in 1467 (ibid. 38), granted the manor of Tilbury in 1475 and the lordship of Clavering in Essex for life in 1478 (ibid. 569, 126), commissioned in 1482 to act as vice-marshal of England (ibid. 317).

[16] These words are apparently the English equivalent of the Latin *in pleno consilio* and the French *en plein conseil*, which frequently occur. Professor Pollard has argued that the adjective *plenum* or *plein*, used in connection with parliament, means "open" or "public" rather than "full" and is equivalent to the French *playn* (*Eng. Hist. Rev.* vol. 30, p. 660). The evidence seems to me to the contrary. Where *playn* was meant, that word was used (ibid.). In one instance we have *en plein confort* and *en plein parlement* side by side (*The King's Council*, p. 495), where the meaning can only be "full" or "complete." A "full" parliament or council, it is true, need not be large. Little stress was laid upon the size even of great councils (ibid. p. 106). The "fulness" consisted rather in the completeness of its legal form and sanction. See also "plein restitucion" in *Petition of the Hansards*, p. 76, and "plein parlement" and "plein relacion" in juxtaposition in *Lowestoft* v. *Yarmouth*, p. 66.

Fortescue[17] squier in maner and fourme and under the thenure[18] that foloweth. In the matier of question and contrauersie betwix John Fortescue squier and Richard Whele otherwise called Pierson of that the said John Fortescue alleggith and seith that the said Richard is a Scotte[19] borne and of thalligiance of the King of Scottis and for such oon hath take hym and is in possession as his prisoner the said Richard evidently proving the contrarie and that he is an Englissheman boren and noo Scotte as in the writinges of the said Fortescue for his partie and also of the Richard for his defence it is conteigned all at large whiche matier longe hath hanged in the kinges counsaill undecided. Therfore the xxi^{ti} daye of Nouembre the xxi^{ti} yere of the reigne of our soueraigne lord the King Edwarde the iiijth in the sterre Chambre at Westminster afore the lordes of the Kinges Counsaill the said writinges for either partie with all such evidences and proves by auctorite examined and by grete deliberacion seen and understanded. And after either of the said parties bothe in thaire owne persone as by thair counsaill at diuers tymes diligently herde in all that they coude or wolde allege and saie in that behalf it appered to the lordes of the said counsaill

FOUQUIRE *v.* NICOLE.[1]

1432–36 A tresreuerend pere in Dieu treshault trespuissains Princes et honnoures Sygneurs messeigneurs les Cardinal Dangleterre[2] Duc de Gloucestre[3] et aultres Conseilliers du Roy[4] nostre souuerain Seigneur en son Royame Dangleterre.

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[17] There was more than one John Fortescue living at this time but the only one entitled "esquire" was John of Punsborne, of the Devonshire branch of the famous family of this name (Lord Clermont, *Hist. of Fam. of Fortescue*, pp. 236 f.). This John acquired properties in Essex through his marriage with Alice Montgomery (Morant, *Essex*, ii, 117). He was sheriff of Cornwall, 1471–76, of Essex and Hertford in 1481 and 1485. Under Henry VII he became a knight of the body and chief butler (*Cal. Pat.* 8 Hen. VII, 421). He was at the siege of Mt. St. Michael in 1472 and at the battle of Bosworth in 1485, but nothing further is known of his participation in the Scottish war.

[18] = tenor.

[19] War between England and Scotland came on in 1480. The date of the first warrants was 15 Feb. 1481.

[20] Master John Gunthorp, a king's clerk, secretary of the queen in 1467 and master of King's Hall, Cambridge (*Cal. Pat.* 32), king's almoner in 1468, clerk of parliament in 1471, dean of the chapel of the king's household in 1481, dean of Wells Cathedral, and keeper of the privy seal in 1483 (*Fœdera*, xii, 194).

[21] Master Thomas Cook, doctor of laws, in this same year one of the ambassadors sent to Bruges (*Cal. Pat.* 313), commissioner to hear an appeal (ibid. 6 Hen. VII, 350), etc.

[22] Prospero Camillo dei Medici was apostolic collector in 1476. *Cal. Pat.* 586; *Fœdera*, xii, 5.

[23] John Howard, duke of Norfolk, 1483-85.

[24] or Harcourt, an old servant of the king's father, Richard Duke of York, who was richly rewarded by Edward IV (*Cal. Pat.* 2 Ed. IV, 198). He was steward, custodian, parker, commissioner and justice of the peace in Oxfordshire and Norfolk.

[25] High bailiff in the county of Guysnes in Picardy in 1468 (*Cal. Pat.* 108), ap-

[*Text continued from opposite page.*]

that the said Richard Whele otherwise called Pierson is and was an Englissheman borne and noo Scotte and that he was borne in the towne of Newcastell upon Tyne and therefore it is considered adiuged and decreed by the same lordes the same Richard so to be holden taken and reputed amongest all the kinges lige people and subiectes and as the kinges ligeman to be demeaned and entreated in all places and noon otherwise and to be at his large and freedome to do that hym semeth good as the kinges subiecte oweth to doo withoute trouble lette or empechement and the said John Fortescue to be putte and so was putte to perpetuell silence of further besynes sute or vexacion of the said Richard for the cause aboue pretended in tyme to come in any manerwise; than present my lordes tharchebisshop of Yorke Chaunceller of England and Bisshoppis of Lincoln priue seall, Bathe, Worcestre and Durham, Maisters Gunthorp,[20] Cook,[21] the popis collectour,[22] the lordis Haward,[23] Sir Thomas Vaghan and Sir Richard Harecourt [24] Knightes and Thomas Thwaytes [25] &c.

[*Signed:*] LANGPORT.[26]

Datum &c. apud Westmonasterium xxvi^to^ die Junii anno &c. xxij.

FOUQUIRE *v.* NICOLE [1]

1432–36 To the right reverend father in God, the most high, the most powerful princes and honourable lords, My lords the Cardinal of England,[2] the Duke of Gloucester [3] and other councillors of our lord the King [4] in his realm of England.

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pointed chancellor of the exchequer for life in 1471 (ibid. 272), custodian for Queen Margaret in 1475 (ibid. 571), treasurer of the town and marches of Calais in 1483 (ibid. 373).

[26] Clerk of the council, jointly with Thomas Kent in 1458, solely in 1462. See *Heyron* v. *Proute*, p. 114, n.

[1] Found in *Ancient Petitions*, no. 13,056.

[2] This was the title by which the king's uncle Henry Beaufort, bishop of Winchester, was commonly known. He had accepted the cardinal's hat and a legatine commission in 1429 without the king's consent, and for this he had to meet the opposition of the duke of Gloucester and others of his enemies, who contended that he had thus vacated his bishopric, made himself liable to the penalties of Praemunire, and even forfeited his right to sit in the council. His rights in these respects were substantially vindicated before parliament in 1431, although his political influence was damaged (see *Dict. Nat. Biog.*). It is important for dating the present petition to note that his name appears with that of Gloucester in the acts of the council during the years 1430–31 and 1433–36 (Nicolas, *Proceedings*, v, 35, 81, 174, 334).

[3] The king's uncle, Humphrey, duke of Gloucester, who resigned the office of protector in 1429, after which he was made lieutenant and warden for two years during the king's absence. The lack of any title and precedence given to the duke in this petition indicates the date of the present document as later than February, 1432.

[4] The manner of the address indicates the minority of Henry VI. Petitions to the king himself begin to appear as early as 23 Nov. 1436 (Nicolas, v, 5), and from that time his participation in the government is evident.

Supplie treshumblement Guillaime Fouquire poure homme laboreur demoirant en la ville de Rouen comme le Jeudj absolu lan mil. iiij^{c} xxx . . . darrein passe le dit suppliant et deux marchans du pais Dangleterre lun noume Jehun Nicole et lautre noume Estienne Nicole lors demourant en la parroiche de Brilesen a demie lieue de Darquemoult, coment Ilz disoiient reussent conuenuns ensembles en certein lieux en la ville de Rouen et pource que le dit suppliant nauoit pas de quoy nourrer lui sa femme et enfans, eust fait contrault auec lesdit Nicole que ycelui suppliant bailla trois enffans ausdit Nicolle cest assavoir deux fieux lun noume Gieffroy lautre Geruays et une fille nommee Jaquelot pour faire seruice ausdit Nicole pour certain temps cest assavoir lesdit Gieffroy et Geruais par les passe de vij ans delors subsequens en leur querrant leurs necessares et les tenir a lescole par le passe de deulx ans pour recompensacion desquels deus ans la fille dessus ditte deuoit faire seruice ausdit Nicolle.[5] Et en la fin desdit vij ans a complir par lesdit enffans et deulx par la dite fille, iceuls Nicole les deuoient rendre a leurs custages en la dite ville de Rouen comme ces choeses sont partes par lettres soubz le seel du Bailliaghe de Rouen que porte le dit, de puis lesquelles choeses la femme du dit suppliant le (*sic*) mere desdits enffans est alee de vie atrespas et la subcession escheue et venue audits enffans dont plusseurs deeus parens se sont voullus ou vullent ensaisine, soubz vindre de ce quils dient que lesdit enffans sont mors, pour lesquelles causes le dit suppliant est venu pour de cha esperant a auoir boienement ses enfans et a troue que le dit Jehan Nicolle est alle de vie a trespassemeint et ne voult rendre ledit Estienne filz du dit Jehan Nicole et a sa femme de cheluy lesdit enffans du dit suppliant mais les ont volus vendre et dit audit suppliant que il ne ara point sesdit enffans se il ne paie xviij nobles,[6] que est contre droit et raison et la promess desdit Nicolle et en tres grant gref preiudice et damaghe du dit subliant et desdit enfans qui nont point este a lescole que dit est: Que de votre benigne graces ces choses consideres vous plaise faire amonstrer rayson et justice au dit suppliant et lui faire rendre ses enffans par le dict Estienne Nicolle et la veusue de son pere ainsy que obligier y sont affin que lesdit enffans puissent recuiller leurs heritagis a eulx venus de par leur mere et de leurs pere quant le case eschara, et que le dit suppliant leur pere puisse faire de eulx leur profyt et lo sien [7] ainsy que

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[5] Probably a contract of apprenticeship, although nothing is here said of instruction in a craft. Seven years was the term commonly insisted upon in the crafts of England, while six years were usual in France. According to the indentures of the fifteenth century, the master was to provide bed, board, training, necessaries, sometimes remuneration and even schooling. The latter feature is emphasized in the present case. See W. J. Ashley, *Econ. Hist. and Theory* (1914), p. 85; L. F. Salzmann, *Eng. Industries of the Middle Ages* (1913), p. 230.

[6] The noble, an English gold coin first minted by Edward III, current for 6s. 8d., which continued to be issued by Richard II, Henry IV, Henry V, Henry VI and Edward IV. The *royal* or *rose-noble* coined by Edward IV was worth 10s. *Century Dict.*

[7] This is the point of the petition. It

Most humbly beseecheth William Fouquire, a poor labourer dwelling in the town of Rouen, how on Holy Thursday of the year fourteen hundred and thirty . . . last passed, the said suppliant and two merchants of England, one named John Nicole and the other Stephen Nicole, then dwelling in the parish of Brixham a half-league from Dartmouth, as they said, had come together in a certain place in the town of Rouen, and because the said suppliant had not the means wherewith to support his wife and children, he had contracted with the said (John and Stephen) Nicole to deliver three children to the said (John and Stephen) Nicole, that is, two sons, one named Geoffrey and the other Gervaise, and a daughter named Jaquelot, to serve the said (John and Stephen) Nicole for a certain time; that is, the said Geoffrey and Gervaise for the space of seven years then following, (John and Stephen) furnishing them their necessaries and keeping them in school for two years by way of compensation, during which two years the aforesaid daughter was to serve the said (John and Stephen) Nicole.[5] And after the completion of the said seven years by the said children and two by the said daughter, (John and Stephen) Nicole were to send them back to their home in the said town of Rouen, (just) as these things are set forth in letters under the seal of the bailliage of Rouen, which bears the same. After which things the wife of the said suppliant, the mother of the said children, has died and her inheritance has come to the said children, of which many of their relatives have wanted or want possession, alleging that the said children are dead. Wherefore the said suppliant has come here hoping to have his children peaceably, and he has found that the said John Nicole has died meanwhile and the said Stephen, son of the said John Nicole, and the wife of the latter will not return the said children but have wished to sell them, and have told the said suppliant that he should not have his children at all unless he paid eighteen nobles,[6] which (thing) is contrary to right and reason and the promise of the said (John and Stephen) Nicole and to the utmost grief, prejudice and damage of the said children, who have not been to school at all, as has been said. May it please your benign graces, having considered these things, to show reason and justice to the said suppliant and cause his children to be returned by the said Stephen and his father's widow, just as they are bound to do, so that the said children may be able to recover their inheritance which comes to them from their mother and their father, when the case requires, and that the said suppliant their father may be able to make of them their profit and his own,[7] just as natural right and reason permit. Hereupon grant

was necessary to bring the children into court, for the father could not act as their attorney. "An infant can sue; he sues in his own proper person, for he can not appoint an attorney. He is not in any strict sense of the word 'represented' before the court by his guardian even if he has one. . . . A friend of the infant may sue out a writ and bring the child into court. But the action will be the infant's,

droit et raison naturel le donnont. Et sur che donnez bone et brieue expedicion au dit suppliant qui na de quoy venir pour de cha et icelui suppliant priora Dieu pour le Roy mon dit Seigneur et pour vous.[8]

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not the friend's action" (Pollock & Maitland, ii, 440–41). These safeguards were strengthened by Stat. Westm. I, c. 48, and Stat. Westm. II, c. 15. See also Holdsworth, *Hist. Eng. Law*, iii, 398.

good and speedy expedition to the said suppliant, who has not the means to come here, and the same suppliant will pray to God for the king, our sovereign lord, and for you.[8]

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[8] As to the significance of this petition in respect of the jurisdiction of the council, see Introd., pp. xxxi–xxxiv.

APPENDIX I

482]

IN RE HEYRON *v.* PROUTE[1]

o Mercatori-
s Stapule
lesie

Rex universis et singulis presentem paginam visuris lecturis aut audituris salutem, et fidem indubiam presentibus adhibere. Cum sicuti informamur Ricardus Heron' laicus naturalis subditus noster qui iam multis annis Societatem Mercatorum Stapule nostre Calisie extra loca nostre obediencie seu iurisdiccioni subiecta maximis litibus et turbacionibus non solum ad eorum quam maxima dispendia verum eciam in nostre regie potestatis spretum et contumeliam vexauit, nulla racione induci poterit vt ab huiusmodi forenci inquietacione Societatis predicte desistat aut querimoniam suam in aliqua curiarum nostrarum aduersus ipsam Societatem seu particulares personas eiusdem instituat et prosequatur, prout attento quod causa sua quam pretendit est mere mercatoria et prophana atque intra fines nostre iurisdiccionis inter solos subiectos nostros originem sumens facere deberet et tenetur set post omnes et singulas remissiones cause eiusdem tam ex Flandrie et Francie quam ex Curia Romana ad nostra tribunalia, ipse in duricia animi sui persistens iam dudum a quodam Actu Parliamenti nostri ac a certis monicionibus et iniunctionibus per honorabilem et circumspectum virum Johannem Shirewode nostrum in ipsa Romana Curia procuratorem eidem Ricardo de mandato ac nomine nostro factis vt ab huiusmodi forensi molestacione mercatorum iuxta eiusdem Actus Parliamentalis continenciam cessaret ac causam suam in aliqua curiarum nostrarum vt dictum est institueret et prosequeretur ad Sedem Apostolicam de nouo appellauit rem sane nouam et prioribus seculis inuisam aggressus cum nusquam ante compertum sit a legibus et politicis institutis regnorum superiores in temporalibus non recognoscencium fuisse taliter appellatum. Nos igitur cupientes omnibus qui prefato Ricardo ad tantam nostri et nostrorum iniuriam et iacturam patulas aures prebent de racione satisfacere vtque toti mundo clarissimum esse possit non esse aut fuisse causam vllam racionabilem quare ipse Ricardus Heron' alibi quam in Anglia causam quam habet aduersus Societatem Stapule nostre predicte institueret aut prosequeretur mandauimus venerabilibus patribus ac aliis nobilibus et circumspectis viris Dominis consilij nostri vt omnia et singula que per eundem Ricardum apud Sedem predictam ea intencione vt liberam prosecucionem huius cause extra Angliam habere posset suggesta sunt summarie repetentes talia super eisdem congrua vera atque legalia responsa aptarent ex quibus omnis aduerse opinionis scrupulus de medio bonarum mencium tolleretur et nos pro veritatis et iusticie zelatore commendari vbilibet deberemus super quo ipsi Domini Consilij nostri mature procedentes rimatis per eos ac diligenter inuestigatis statutis ordinacionibus conuencionibus tractatibus et appunctuamentis tam creacionem et erectionem Stapule nostre predicte quam communicacionem et intercursum in facto mercanciarum aliosque necessarios articulos pro causa eiusmodi dilucidanda concernentibus tandem relacionem nobis de et super omnibus suggestis per ipsum Ricardum memoratis fecerunt in scriptis sub eo qui sequitur tenore verborum: Sequntur responsa vera atque legittima ad ea que per quendam Ricardum Heron' laicum nacionis Anglicane in causa quam se habere pretendit aduersus Societatem Mercatorum Stapule Calisie pro mala contraccione lanarum suarum per eandem Societatem intra Stapulam eandem vt dicitur factam apud Sedem Apostolicam tam ex forma pristine supplicacionis quam secute appellacionis per eum ibidem interposite tacita veritate suggesta sunt visa serie supplicacionis quam Ricardus Heron' porrexit sancissimo Domino nostro Domino Sixto Diuina Prouidencia Pape quarto cuius vigore peruentum fuit ad quoddam monitorium penale atque ad quendam exinde secutum processum contra et adversus Societatem Mercatorum Stapule Calisie sicut ex forma cuiusdam bulle reuocatorie et annullatorie dicti processus et omnium ex eo dependencium de data sexto Idus Novembris anno Pontificatus euisdem S. D. nostri nono plenissime continetur, viso eciam transcripto cuiusdam instrumenti de et super appellacione per eundem Ricardum vndecimo die Januarij anno Domini Millesimo CCCC^{mo} octuagesimo primo secundum computacionem Ecclesie Romane in Basilica Principis Apostolorum Rome interposita; preter et vltra ea que per ipsum Ricardum super meritis decisiuis sui negocij diffuse narrantur, quorum recitatio presenti proposito non conducit quedam ad fundandam iurisdiccionem eorum apud quos extra loca obediencie Domine Regis Anglie dictus Ricardus litem ipsam instituit ab eo introducta allegata et suggesta esse constat. Idcirco ne error cui non resistitur approbetur et ne veritas falcitati succumbat equum visum est allegata et suggesta huiusmodi infrascriptis racionibus veritati et iusticie consonis informare ad omnem iuris effectum qui exinde sequi poterit et presertim vt causa laicalis et prophana ad Curiam Romanam de facto falsis suggestionibus deuoluta ad suum iudicem legittime remittatur. In forma autem supplicacionis sue prelibate prefatus Ricardus inter cetera commemorans quomodo olim Rex Anglie et eius regni Parliamentum statuerunt stapulam lanarum et pellium lanutarum in villa Calesie Morinensis Diocesis quodque ad maiorem defensionem dicte ville extra regnum predictum consistentis et huiusmodi regni circumdate inimicis et pro securitate Mercatorum eiusdem Societatis in huiusmodi ordinacione Rex et Parliamentum prefatum inhibuerunt omnibus et singulis cuiuscumque auctoritatis essent ne lanas aut pelles huiusmodi in Stapula aut villa predicta pro tempore existentes alias quam per viam iusticie capere aut dampna alicui ex Mercatoribus dicte Stapule inferre presumerent sub quadrupli pena parti offense applicanda subiungendo consequenter certas normas et regulas iuratas sub quibus Mercatores ipsius Societatis omnes et singuli inter se pro securitate et salua guardia ville predicte conuiuere possent et deberent denique ad fundandam iurisdiccionem Ducis Burgundie tanquam Comitis Flandrie sueque legis pro reformacione dampnorum alicui ex predictis Mercatoribus per ipsam Societatem seu particulares personas eiusdem circa lanas aut pelles huiusmodi infra ipsam Stapulam illatorum dummodo lane seu pelles prefate contra voluntatem possessorum per vim et violenciam extra Stapulam ipsam ad loca dicioni Ducis Burgundie subiecta transportata fuerint, dixit recitauit et suggestit prout sequitur quod successiue inter tunc Regem Anglie et Ducem Burgundie conuentum extitit quod omnes mercatores et quilibet eorum possent ire libere et secure cum omnibus lanis bonis et mercanciis ipsius regni Anglie in Flandriam Holandiam Zelandiam Brabanciam et alia loca dicti Ducis dominio subiecta et in illis conuersari ac exinde recedere absque eo quod aliquis possit procedere contra eos alias quam iusticia mediante. Et quod si quas lanas aut mercancias per vim capi et ad dicta loca eiusdem Ducis temporali dominio subiecta deferri aut inde vendi et distribui contingeret officiales Ducis in eisdem locis deputati illas restitui facere deberent et nisi id facerent valorem talis mercancie de suo soluere tenerentur, prout hec omnia in capite prefate Bulle peticionem dicti Ricardi exprimentis latius diffusiusque continentur. Ad premissa respondetur veraciter in hunc modum: Verum est quod Villa Calesie situatur in medio terre eorum qui regno Anglie consueuerant aduersari quod ad solacium releuamen et defencionem eorum qui in dicta villa conuersantur ordinatum fuit illic debere esse Stapulam lanarum et pellium predictarum sub huiusmodi statutis et constitucionibus a sui primordio erectam et stabilitam quod inconsultis atque inuitis vicinis oportuerat non nulla pro tutela eiusdem opidi castri et marchiarum tam per Parliamenta regni quam alias pollitice per ipsos de Stapula et ceteros inhabitantes ordinari de quibus neque racio neque equtas suadebat vt aut Dux Burgundie aut qui pro tempore aduersus Anglicos regnaret in Galliis iudex esse posset nam in hiis priuatis statutis consistunt secreta regni. Et quorum incompetens est iudex quicumque est ille contra cuius conatus ipsas ordinaciones emanasse constiterit vulgata est enim querela omnium subditorum Ducis Burgundie qui cum Mercatoribus Stapule in factis mercandise communicant quod Stapularij illi per suas ordinacione spriuatas libertatem intercursus indies infringunt monopolia atque alia dampata decreta et concilia statuendo. Solus igitur iudex eorum que ex priuatis statutis eiusmodi dependere noscuntur is princeps est qui aut ipsa statuta edidit aut aliis edendi auctoritatem dedit. Quam ob rem si Ricardo Heron' ex statuto aliquo regni ordinacionibusve privatis stapule actio ad recuperandum quadruplum dampni sibi per aliquos in Stapula dati competere dinoscatur prosecucionem suam ab inicio in Curia Regis sui facere debuerat et non externa atque incompetencia pulsare examina. Quod autem id quod maximum fundamentum sue cause ignaris hominibus videtur esse nullius roboris sit aut momenti videlicet vt pro violencia circa lanas in Stapula Calesie commissa postquam ipse adducte fuerint in partes Flandrie legis latores ibidem iurisdiccionem habeant in subditos Regis ex forma articuli intercursus vnde Ricardus ille argumentum sumere videtur luce clarius demonstrandum est. Non enim data est principi unius aut alterius partis iurisdiccio pro hiis que extra sua territoria perpetrantur nisi solum in capcionibus maritimis si res subditorum unius partis per piratas aut alios bellatores martimos intercepte in potestatem alterius partis deuenerint. Qui igitur composicionem istam ad capturam terrestrem extendens, cum de mari tantummodo mencionem facit, suadet suo aut alieno principi summoque Pontifici, quos ea que sunt facta eciam si peritissimi sint fallunt, quod causam suam in terra Calesie ortum habentem legittime introduxit primum in Curiam Ducis Burgundie atque deinde per appellacionis remedium ad Parliamentum Francie; postulans a suo Rege summo etc. Pontifice hiis erroribus circumuento licenciam et potestatem ita in forensi et vetito examine inchoatum processum tanquam in foro competenti vsque ad finalem sentenciam prosequendam indignus est vt super falsis suggestionibus suis amplius audiatur aut permittatur gaudere litteris licencie eiusmodi tam surrepticiis per eum vt premittitur impetratis, ut autem veritas istius composicionis que non aliter se habet quam eo modo quo iam recitatur omnibus nota sit visum est ipsum integrum articulum ex corpore litterarum intercursus mercandisarum prout inter regnum Anglie et patrias Ducis Burgundie sub mutuis principum sigillis ab antiquo expedite fuerant extrahere et presentibus inserere cuius tenor talis est. Item se par escumers ou aultres gens labourans sur la guerre aucuns biens des merchans de la partie Dangletere ou de Brabant Flaundres Malines ou aultres pais dessusdit estoient prins sur mer et ameneez en aucuns dez portz ou haures de lun partie ou de lautre que iceulx biens ne pourront illec estre vendus ne alieneez sur terre ne mis a terre par lesdit escumers ou aultres quelzconques et se ilz estoient ainsi venduis alienees sur terre ou mis a terre que restitucion sera fait desdit biens ou de leur dit valeur aux merchans de qui on les auroit prins. Et auront les officers des lieux mandement expresse par lettres patentes telz quili appartient defair faire ladit restitucion toutes les fois que le cas escherra sur paine de le recouirer sur eulx se lesdit biens estoient ainsi vendus ou alieneez a terre ou mis a terre de leur sceu ou souffrance et auec se sera fait defence es portes et haurez dun coste et daultre sur certains et grosses paines que alcun de quelque nacion quil soit ne achate a terre ne pourra mettre a terre aucuns dez dit biens. Ita quidem confutato precipue immo et solo dicti Ricardi argumento ex cuius fallacia Reges et ceteri Principes demumque summus Christi Vicarius circumuenti non nulla eidem per suas litteras concesserunt que si premissorum scioli extitissent de verisimili non fuissent quomodolibet concessuri superfluum videtur reliqua prefate supplicacionis capitula pertractare que non declinatoriam fori set peremptoriam materiam atque interiora viscera cause apud suum iudicem agitande concernunt, excepto quod ipse Ricardus se peregrinum et romipetam tempore turbacionis sue fuisse lapsis postea prope viginti annis finxit et similauit. Que res quam per nonnullas litteras regias superioribus diebus Sancissimo Domino nostro transmissas sepissime ostensa est ficticia et similata, ita quod non sit amplius opus rem certam cerciorem efficere ad vanitatem causarum que ex serie prefati appellacionis deducte sunt veniendum est et primo quia dictus Ricardus inuehens in litteras regias procuratori suo directas in quibus certus terminus ei prefigitur ad veniendum in Angliam causam que pendet inter ipsum et Mercatores Stapule prosecuturo easdem litteras de mente Domini Regis non processisse sed per circumuencionem et preoccupacionem sua maiestate aliis arduis occupata dolo dictorum Mercatorum extortas esse affirmat pro eo et ex eo quod in eisdem litteris continetur quod dictus Ricardus rebellis Domino Regi extiterit cum sicuti dicit ita non fuerit quodque in eis causa aliqua dicitur pendere indecisa inter ipsum et dictos Mercatores quod dicit verum non esse cum iam pridem contra ipsos sin autem super bonis suis per ipsos sibi spoliatis super quibus multis annis questio inter ipsos fuit vt dicit agitata primo in Anglia deinde in Flandria et postmodum in Francia, deinde iterato in Anglia et postremo in Francia et tandem propter iusticie denegacionem successiue in eisdem partibus sibi factam in Curia Romana deuoluta obtinuit declaratoriam que nulla prouocacione suspensa in rem transiuit iudicatam. Ad hunc articulum ita respondetur quo ad notam rebellionis attinet prefatus Ricardus longe antequam dicte littere regie emanarunt eam incurrebat non obtemperando legi que in eum per tres status regni in Parliamento lata fuit vt videlicet desisteret extra regnum ab omnibus accionibus et prosecucionibus determinabilibus in aliqua Curia Domini Regis quas habet aut habere potest contra Maiorem et Mercatores Stapule antedicte sub pena vt contrafaciens ponatur extra proteccionem Domini Regis et sub aliis grauibus penis in Actu Parliamenti desuper tenti plenius expressatis. Ad aliud quod dicit de causa non pendente set decisa per sentenciam declaratoriam quam obtinuit in Curia Romana ad quam Curiam dicit fuisse ipsam causam deuolutam propter denegacionem iusticie sibi facte bina vice in Anglia et tociens in Francia ac semel in Flandria mira est audacia hominis in cumulando tot pudenda mendacia. Nam quantum ad Angliam attinet nunquam ibi prosecutus est causam istam in aliqua Curiarum Domini Regis nec etiam in suprema Curia Parliamenti eiusdem regni ad quam per duos annos continuos infra limites sanctuarii ubi ipse tutissime residebat tentam et celebratam liberum accessum indies habere potuit et queremoniam suam ibidem discutere si voluisset. Verum longe sibi alia mens fuit vt subdole Dominum Regem per informaciones aliquorum qui suo lateri assistebant circumueniret pretendendo licet erronee quod virtute articuli intercursus memoratur quem ad casum inpertinentem vt prefertur extendebat officiales Ducis Burgundie fuerant immediater iudices competentes sue cause in quorum defectu sicut asseruit eadem causa fuerat per suam appellacionem ad curiam Parliamenti Francie legittime deuoluta suggessit igitur Domino Regi Anglie causam suam tunc in Francia pendere, quod verum non erat quia multis antea transactis annis ipsa causa remissa fuit a Parliamento Francie ad Dominum Regem Anglie tanquam ad iudicem proprium et ordinarium cuius rei si protunc Dominus Rex memor extitisset denegasset profecto litteras ipsas licencie alibi prosequendi quas prefatus Ricardus tantis cautelis tamque surrepticie a sua maiestate extorsit. Quam ob rem detecta consequenter surrepcione eiusmodi licuit Domino Regi absque nota seu suspicione mutabilitatis aut inconstancie cuiuslibet dare atque expedire litteras posteriores procedencium reuocatorias sicut eodem modo prout sacri canones testantur licet Christi Vicario sentenciam Romane Sedis posse in melius commutare cum aut surreptum aliquid fuerit aut pro consideracione etatum temporum seu grauium necessitatum Sedes ipsa diapensacione quicquam ordinauerit. Et igitur dicit prefatus Ricardus causam illam non pendere set esse decisam per dictam pretensam sentenciam declaratoriam falsum esse conuincitur quoniam ipsa sentencia cum toto processu exinde secuto per bullam Sancissimi Domini nostri de data predicta propter falsas suggestiones per dictum Ricardum sue sanctitati prius vt premittitur factas ex suo mero motu et certa scientia reuocata est causaque omnis reposita in pristinum statum. Secundo et multum peremptorie sicut sibi videtur prefatus Ricardus subinfert quod Mercatores Stapule vt saltem ficticium et velatum colorem haberent sibi non satisfaciendi famam currere fecerunt Dominum Regem Anglie dum adhuc Comes Marchie existeret ipsum bonis suis in dicto oppido Calesie spoliasse seu spoliari fecisse, ob quam causam idem Dominus Rex vt de sua innocencia super hiis clarissime constare posset, per suas litteras patentes magno et priuato sigillis et signo manuali vt supponit munitas licenciam sibi concessit quod predictos Mercatores extra dictum regnum suum Anglie in Parliamento Parisiensi ad quod tanquam ad Comitatus Flandrie immediatam supremam iusticiam per appellacionem sicut pretendit deuoluta fuerat et alibi coram iudicibus neutralibus et indiferentibus sicut bonum sibi videretur prosequi posset, in quo etiam articulo dictus Ricardus innititur ad longum super fundanda iurisdiccione Ducis Burgundie tanquam Comitis Flandrie Officiariorumque et quatuor membrorum Comitatus Flandrie ad cognoscendas et decidendas questiones motas siue mouendas super spoliacione huiusmodi lanarum et mercanciarum ab opido Calesie vbi spoliacio facta fuit sicut dicit ad eundem Comitatum Flandrie transportatarum et ibidem alienatarum dicens quod per Reges Anglie ex vna et per Duces Burgundie tanquam Comites Flandrie ex altera partibus leges et statuta intercursus mercanciarum taliter ordinata sunt et hucusque per eos inconcusse obseruata quod huiusmodi spoliacionis cognicio ad legem dicti comitis pertineret subiungit preterea Dominum Regem fecisse dictum

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[1] The conclusion of the litigation begun in *Heyron* v. *Proute and Others*, supra, pp. 110–114, as explained in Introduction, p. cxv. The record is taken from *Treaty Roll*, 21 Edw. IV, no. 165, mm. 1–3.

Ricardum ex causis premissis obligari et condempnari coram Abbate Monasterii Sancti Petri infra Sanctuarium Westmonasterii London' Diosesis vt huiusmodi prosecucionem modo quo premittitur extra suum regnum facere deberet, quodque dictus Dominus Rex per litteras suas in huiusmodi prosecucione sibi assistenciam prebere et nunquam illius contrarium facere bona fide et in verbo regis promiserat concludendo ex hiis omnibus non esse verisimile aut vllo modo credendum quod ipse iniunctiones et intimaciones per procuratorem regium sibi facte nec ipsa ordinacio Parliamenti Anglicani qua sub grauibus penis dictus Ricardus admonetur a prefatis prosecucionibus desistere; quouismodo de eiusdem Domini Regis mente processerit, reputans prefatos Mercatores qui tales litteras a Domino Rege emanasse confirmant in maximum scandalum vituperium et confusionem eiusdem Domini Regis talia promulgare, quodque ob eam rem per eundem Dominum Regem et suum magnum Consilium deberent acerime puniri in exemplum aliorum. Ad hunc articulum licet consideratis premissis non sit opus respondere cum ad omnes partes eiusdem que maxime vrgere videtur sic implicite supra satis responsum excepto eo quod iam supponitur Mercatores predictos diffamasse Dominum Regem de perpetracione spolii antedicti. Ad conuincendam tamen in toto maliciam et falsitatem dicti Ricardi de cuius impudencia quam plurimum mirandum est quod Supremum Ecclesie verticem suis ficticiis supplantare non veretur non minus quam Reges et ceteros Principes seculares suis versuciis et coloratis adinuencionibus hactenus supplantauit [et] decepit, visum est omnia et singula membra dicti articuli responsiue repetere taliter quod toti mundo apparebit singulas litteras que a Domino Rege in premissis emanarunt de sua recta et sincera consciencia processisse ac prioribus litteris surrepticiis non obstantibus de iure procedere debuisse cum integritate sui regij nominis atque fame. Quantum autem ad famam illam attinet quam sicut dictus Ricardus asserit Mercatores Stapule sparsissent aduersus prefatum Dominum Regem videat ipse Ricardus an ipse et complices sui vt dictos Mercatores inuisos et odibiles eidem Domino Regi redderent talia de eisdem Mercatoribus ubique seminarunt; verum est quod post vltimum discessum prefati Ricardi a regno Anglie datum est dictis Mercatoribus intelligi ad maximam eorum tristiciam quod per factum eiusdem Ricardi et per subdolas atque secretas suggestiones ipsius Dominus Rex habebat ipsos Mercatores de tali infamia plurimum suspectos, et quod ea de causa sua serenitas assensum prebuerat eidem Ricardo vt in Parliamento Parisiensi causam suam quam dicebat tunc adhuc ibi pendere indecisam prosequeretur obligans eundem Ricardum coram dicto Abbate vt prefertur vt causam ipsam inibi prosequi non desisteret promittens eidem Ricardo assistenciam in facto prosecucionis huiusmodi ad finem vt eo modo malicia dictorum Mercatorum qui suum principem diffamare verentur fuisset in curia aduersarij seuerius vindicata, ipsi autem Mercatores qui se ex premissis apud maiestatem regiam intolerabiliter lesos videbant non destiterunt modis omnibus instare primum apud Consilium Domino Regis postremo congregatis Statibus regni penes ipsum Parliamentum vt innocenciam suam super premissis ostendentes se ipsos de tanta iniquitate et infamia expurgarent. Quod et factum est et desuper prefato Domino Regi clarissime ostensum ex falsissimis suggestionibus eiusdem Ricardi non palam set clanculo in angulis sanctuarij factis insciis atque semotis Conciliariis Domini Regis maiestatem suam per preoccupacionem et circumuencionem in concedendo litteras et licenciam supradictas fuisse deceptam quodque iam dicta surrepcione et falsitate huiusmodi nisi serenitas sua dictas litteras et licenciam prefatumque Ricardum ad prosequendam causam suam tantummodo in Anglia reuocaret breve futurum foret quod dissolueretur Societas Stapule antedicte de cuius prosperis successibus pendet non tantum salus dicti opidi et mercanchiarum Calesie set eciam totius comunitatis regni Anglie. Quibus racionibus maiestas regia iuste permota scripsit in Franciam vt causa ipsa que olim totaliter ex Curia Parliamenti Francie ad suum iudicem in Anglia remissa fuit, ibidem vlterius non agitetur non obstantibus litteris et licencia predictis in quibus concendendis sua serenitas ex falcis suggestionibus prefati Ricardi fuit vt premittitur circumuenta. Ita quidem accidit quod Ricardus ille cui per Dominum Regem omnis iusticia cum fauore sibi ministranda in Anglia oblata est in despectum et vilipendium Corone Anglie perseuerauit in malicia sua sollicitando atque defatigando externos principes et presertim Sancissimum Dominum nostrum super suis iniquis falsis vanis et ficticiis adinuencionibus in finale exterminium Societatis predicte nisi aliunde desuper prouideretur, aduersus cuius induratam maliciam tres Status regni Anglie in Parliamento congregati vniuersum regnum Anglie representantes quibus tam ipse Ricardus quam singula alia supposita ipsius regni parere tenentur cupientes salubriter prouidere edictum penale fecerunt ne dictus Ricardus prosecucionem vllam forensem illius cause que ortum habuit infra territorium Domini Regis faciat aut in ea persistat vllo modo set quod ad certum terminum veniat in Angliam causam eandem ibi solomodo prosecuturus. A quo statuto sic edito atque a prefixione termini certisque iniunctionibus ex parte Domini Regis per dictum suum procuratorem in curia Romana pro execucione prefati statuti racionabiliter factis dictus Ricardus ad eandem curiam dicitur appellasse, cuius appellacio si, quod absit, admissa et exaudita foret breve futurum esset quod omnis iurisdiccio temporalis ex tali exemplo in manifestam confusionem incideret, quod non est credendum S. d. n. aut ipsam Romanam Curiam velle quomodolibet attemptare. Et autem sicut supra recitatur prefatus Ricardus in ista sua appellacione multum insistit circa fundandam iurisdiccionem Comitis Flandrie et consequenter Parliamenti Francie quoad cognicionem spolij ita commissi in Stapula Calicie vt prefertur satis supra hec falsitas confutata et conuicta est, cum omnes articuli intercursus inter Principes emanati sunt reciproci, non amplius. Jus tribuentes Comiti aut legi Flandrie super subditos Regis pro spoliis extra perpetratis quam Regi aut legi Anglie in subditos Ducis Burgundie pro iis que in terra sua propria atque inter solos suos subiectos act sunta. Inauditum est enim a sectis quod vnus Flammingus traheret alium Flammingum ad iudicium in Anglia pro delicto in Flandria perpetrato eciam si ipsum delictum concerneret bona aut mercimonia postea deducta in Anglia nec potest racio dari quare magis vnus Anglicus prosequeretur alium Anglicum in Flandria pro delictis aut spolijs commissis in Anglia Hibernia aut Villa Calicie quam quod in predicto casu posset Flammingus in Anglia Flammingum prosequi quod nunquam fuit visum nec vlla principum conuencione concessum. Si vero prefatus Ricardus accionem rei persecutoriam aduersus possessores lanarum suarum in Flandria forsitan intentasset nec accione personali suos communicatores pro spolio extra commisso in vetito examine traxisset in causam querela sua colorem aliquem iusticie ita in Flandria implorate habuisset vicine autem si quod per Anglicos in illis lanis perpetratis extiterat totum in Villa Calesie vbi omnis contractus per rei tradicionem factam subditis Ducis Burgundie perfectus erat et non in patria Flandrie committebatur, solent enim Mercatores Stapule lanas suas semper in ipsa Stapula vendere ita quod tota abinde vectura est ad onus et periculum emptorum; denique non est relinquendum intactum id quod sepedictus Ricardus Heron' dicit de litteris regiis sibi datis sub magno et privato sigillis eiusdem Regis vnde multi forsan coniecturam caperent quod licencia illa prosequendi non clanculo set potius palam per iudicium Consiliariorum Regis data fuit; ad quod ita respondetur non reperitur in aliquo officio huius regni cui magnum aut priuatum sigillum Domini Regis deseruit exemplar aliquod huiusmodi licencie directe et specifice quam prefatus Ricardus pretendit sibi fuisse concessam contra Mercatores Stapule ad prosequendum eos in Curia Parisiensi aut alibi extra regnum Anglie si quid autem in huiusmodi licenciam specificam sonans sub litteris aut signatura Domini Regis ostendi potest creditur scriptum huiusmodi sub annulo regio quem signetum in hiis partibus vocant tantummodo emanasse. Secretarius autem regius qui protunc erat et ad cuius officium pertinuit custodia ipsius anuli prout prefatus Ricardus satis nouit unus de precipuis promotoribus intencionis sue apud Dominum Regem fuit, propterea quod iam est annus et vltra dimidiam dolore animi captus intrinsecus mortem obiit, verum est, quod maiores regij Consilij non latuit, habuisse atque exhibuisse in publicum eundem Ricardum sepe ante discessum suum vltimum e regno Anglie non nullas litteras variis principum et nobilium sigillis regnorum Castelle Legionis Arrogonnie Francie partiumque adiacencium munitas de et super multis atque maximis pecuniarum summis in quibus dicti Principes et nobiles externi se et heredes suos bonaque et hereditates suas obligarunt certis nobilibus personis regni Anglie suisque heredibus et assignatis pro redempcionibus et financiis suis quando dicti Principes et nobiles externi in nonnullis bellis Hispanie atque Francie per diuersos Anglicos capti fuerant. Suggessit vero predictus Ricardus Domino Regi et nonnullis de Consilio suo quod ipse obtinuerat prefatas litteras et iura eorum qui ex eis fructum consequi deberent sibi cedi. Quodque in mente habuit cum bona gracia Domini Regis partes externas vbi heredes dictorum obligatorum commorantur adire ibidem pro iusticia super obligacionibus huiusmodi consequenda prosecucionem facere rogans maiestatem regiam vt litteras suas de licencia id faciendi commendaticiasque sui et negociorum que prosequenda in Curia extraneorum Principum susceperat sibi graciose concedere dignaretur forme autem litterarum ex causis premissis ita generaliter emanatarum multi ex Consiliariis Domini Regis conscij fuerant non tamen per hoc intelligentes dictam causam aduersus Societatem Stapule antedicte debuisse aut potuisse quomodolibet sub illis litteris generalibus comprehendi, sicut deficiente concensu prefate Societatis nec facta prorogacione iurisdiccionis extraneorum Principum antedictorum de iure comprehendi non potuit; aut ergo littere ipse quas dictus Ricardus sub magno et priuato sigillis Domini Regis iactat se habere sunt vt premittitur tantummodo generales, aut si fortasse speciales super negocio aduersus prefatos Mercatores extiterint non potest aliter esse quin aliquo extraordinario modo furtiuo et surrepticio propter iudicia et consciencias officialium et consiliariorum Domini Regis impetrate sint. Et ideo summe licuit Domino Regi easdem litteras per aduisamentum Consilij atque insequendo acta Supreme Curie Parliamenti sui per alias litteras et decreta posteriora modis omnibus reuocare annullare et infirmare prout sua serenitas iustissime fecit, non ex dolis neque ad importunam instanciam dictorum Mercatorum, sicut prefatus Ricardus eos diffamat, set propria et regulata mente sue regie maiestatis tanquam debentis et aliter non valentis suorum subiectorum commodis prouidere, et hec sunt que per Dominos Consilij regii de mandato sue celsitudinis inuestigata comparata declarata et relata sunt pro vera et certa intelligencia negocij antedicti. Quocirca nos Edwardus Rex Anglie memoratus pro certo scientes relacionem taliter per Dominos Consilii nostri nobis factam racioni et veritati consonam fore. Nosque per preoccupacionem et circumuencionem multiplicem tacita veritate tam predicti articuli intercursus quam aliorum articulorum diuersorum causam premissam concernencium per falsas et ficticias suggestiones prefati Ricardi tales litteras et promissiones eidem Ricardo fecisse et dedisse que nunquam a nobis si premissorum scioli fuissemus emanare debuerant dicimus protestamur et declaramus omnes et singulas litteras revocatorias memoratas ordinacionemque per tres Status Parliamenti nostri suprascriptos intimaciones moniciones et iniunctiones per prefatum procuratorem nostrum in eundem Ricardum factas a nobis de nostris mero motu et certa sciencia sine dolo calliditate aut importunis instanciis Mercatorum Stapule nostre predictorum racionabiliter et legittime processisse. Et ideo vniuersitates vestras attente rogando requirimus et hortamur in Domino quatinus hiis litteris nostris plenam fidem in omnibus adhibentes nullam decetero audienciam prefato Ricardo Heron' naturali subdito nostro super friuola et presumptuosa appellacione sua eiusmodi impartiri velitis. Set causam istam prophanam et pecuniariam inter solos subiectos nostros atque infra metas proprij territorij nostri vt premisimus ortum habentem que nullo iure legi Flandrie aut Francie subiici debuit ad nostra tribunalia remittendam fore ac realiter remitti debere tam apud S. d. n. quam alibi vbi oportunum videbitur modis omnibus persuadeatis. Nos enim si vnquam antehoc fuissemus legittime interpellati ad ministrandam iusticiam in hac causa, ita profecto partes equi iudicis fuissemus executi quod super denegacione iusticie ad S. d. n. recursum haberi non oportuerit, promittentes insuper bona fide et in verbo regio quod si dictus Ricardus iusticiam nostram super premissis implorare suamque accionem aduersus prefatos Mercatores in aliqua Curiarum nostrarum intentare voluerit tam sibi benignam audienciam atque vere iusticie execucionem faciemus vt merito debeat contentari. In quorum omnium testimonium atque fidem presentem paginam magno et priuato sigillis nostris signoque nostro manuali fecimus roborari. Datum per auisamentum consilii nostri in Palacio nostro Westmonasterii prope London' xxvij die Februarij anno r. n. vicessimo primo.

per breve de priuato sigillo et de dato etc.

APPENDIX II

CASES PUBLISHED ELSEWHERE

Parties	*Subject*	*Date*	*Publication*
Merchants of Spain and Portugal *v.* Men of Bayonne	Capture of ship and goods	1293	*Navy Records Society*, vol. xliv, pp. 12–18
Hegham *v.* Brewes	Contempt of court	1305	*Abbreviatio Placitorum*, 256
Rex *v.* Bishop of Durham	Claim to Werk in Tyndale	1306–7	Cole, *Documents Illustrative*, 129–138
Suit of John de Molyns	Restitution of a manor	1346	*Cal. Pat. Rolls*, 20 Edw. III, 139–141
Prior of St. Katherine's	Forgery	1348	*Cal. Close Rolls*, 22 Edw. III, 131
Rodland *v.* Spynk	False Suggestion	1364	*Cal. Pat. Rolls*, 38 Edw. III, 502
Chamberlains *v.* Chesterfield	Rasure of a record Defalcation. Malicious accusation	1365	*Cal. Close Rolls*, 39 Edw. III, 114
Audeley *v.* Audeley	Validity of a premarital contract	1366	*Cal. Close Rolls*, 40 Edw. III, 237–239
Prior and Convent of Dunstable *v.* Commonalty of Dunstable	Disputed liberties	1366	*Cal. Close Rolls*, 40 Edw. III, 302–305
Petition of Merchants of Castile and Biscay	Seizure of ship during truce	1369	Baldwin, *King's Council*, 486–488
Merchants of Aragon *v.* Admirals	Appeal from court of admiralty	1386	Ibid. 507–510
Bishop of Winchester	An erroneous writ	1389	Ibid. 510–512
Cheyne *v.* Brian	Delivery of a castle Forcible disseisin	1389	Ibid. 513–517
Rex *v.* John Sibille	Fraudulent executors	1392	Ibid. 517–520
Confession of Merchants of Cornwall	Illegal exportation of tin	1393	Ibid. 520
Harpetyn *v.* Prior of Lewes	Forcible disseisin	c. 1398	Ibid. 520–522
Barbour *v.* Kyme	Soothsaying	1401	Palgrave, *Original Authority*, 87
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Earl of Devon *v.* Bonville	Feud and riot	1441	Ibid. v, 173–175
Colynson *v.* Cromwell	False suggestion. Scandal of a lord	1453	*Cal. Pat. Rolls*, 31 Hen. VI, 93–102
Mayor of Exeter *v.* Stoden	Conflict between gild and corporation	1477	Leadam, *Cases in the Star Chamber*, i, 1
Abbot of Bury St. Edmunds *v.* Town	Riot	1480	*Cal. Pat. Rolls*, 20 Edw. IV, 219
Taylour *v.* Att Well	Conspiracy and forgery	1482	Leadam, op. cit. 6
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